



United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement

Suite 1200

505 Marquette Avenue N.W.

Albuquerque, New Mexico 87102

UD 9-4 (copy) file
2-9-93
cc: SPB
SCH
PGL
DH
maw
TAKE PRIDE IN AMERICA
IN REPLY REFER TO:

February 3, 1993

fib

Mr. Lowell P. Braxton, Acting Director
Division of Oil, Gas and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

Dear Mr. Braxton:

Enclosed is a copy of the ~~1992 Annual Evaluation Report~~ published by the Office of Surface Mining Reclamation and Enforcement for the Regulatory and Abandoned Mine Land Reclamation Programs administered by the State of Utah.

Sincerely,

Acting For

Robert H. Hagen, Director
Albuquerque Field Office

Enclosure

RECEIVED

FEB 0 6 1993

DIVISION OF
OIL GAS & MINING



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Report

for the

Regulatory and Abandoned Mine Land Reclamation Programs

Administered by the State

of

Utah

for

Evaluation Year 1992

(July 1, 1991 through June 30, 1992)

December 1992

Table of Contents

I.	Introduction	1
II.	List of Acronyms	1
III.	Executive Summary	2
IV.	Overview of the Utah Coal Mining Industry	3
V.	Success in Achieving the Purposes of SMCRA	4
VI.	Status of Issues from Previous Annual Evaluation Reports	5
VII.	Actions Affecting Program Implementation	6
VIII.	Summary Findings	8
	A. Regulatory Program	8
	1: Permitting Actions	9
	2: Bonding	11
	3: Inspections	12
	4: Enforcement	13
	5: Civil Penalties	15
	6: Administrative and Judicial Review	16
	7: Designation of Lands Unsuitable for Mining	17
	8: Blaster Certification	18
	9: Small Operator Assistance	19
	10: Maintenance of Approved Program	20
	11: Program Administration	21
	B. AMLR Program	22
	1: Project Planning	23
	2: Project Construction	25
	3: Program Administration	26
	4: Maintenance of Approved Reclamation Plan	27
Appendix A: Tabular Summaries of Data Pertaining to Mining, Reclamation and Program Administration		
	Table 1 -- Coal Production	A-1
	Table 2 -- Inspectable Units	A-2
	Table 3 -- State Inspection Activity	A-3
	Table 4 -- Trends in Inspectable Units and State Inspections	A-4
	Table 5 -- State and OSM Enforcement Activity	A-5
	Table 6 -- State and OSM Enforcement Activity	A-6

Table 6 -- OSM Inspections of Sites where the State is the Regulatory Authority	A-7
Table 7 -- OSM Inspections of Sites where the State is <i>NOT</i> the Regulatory Authority	A-8
Table 8 -- OSM Random Sample Inspection Compliance Findings	A-9
Table 9 -- Distribution of Violations by Performance Standard	A-10
Table 10 -- Seriousness of Violations Present at Time of Last State Complete Inspection	A-11
Table 11 -- Citizen Complaints	A-12
Table 12 -- Permit Applications Received by State	A-13
Table 13 -- State Permitting Actions	A-14
Table 14 -- Bonds Released by State	A-15
Table 15 -- State Bond Forfeiture Activity	A-16
Table 16 -- Status of State's Bond Pool or Forfeiture Reclamation Fund	A-17
Table 17 -- Lands Unsuitable Petitions	A-18
Table 18 -- Staffing	A-19
Table 19 -- Funds Granted to Utah by OSM by Evaluation Year	A-20
Table 20 -- Status of AMLR Funds Awarded to Utah	A-21
Table 21 -- AML Reclamation Achievements <i>During</i> Evaluation Period	A-22
Table 22 -- AML Reclamation Achievements <i>Since</i> Program Approval	A-23

APPENDIX B:	OSM Cyclical Review Schedule for Evaluating State Program Elements and Sub-elements (Evaluation Years 1992-1994)	B-1
-------------	--	-----

APPENDIX C:	State Comments on Report	C-1
-------------	------------------------------------	-----

I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior to oversee the regulation of coal exploration and surface coal mining and reclamation operations and the reclamation of lands adversely affected by past mining practices. SMCRA provides that, if certain conditions are met, a State may assume primary authority for the regulation of surface coal mining and reclamation operations and the reclamation of abandoned mine lands within its borders. Once the State has obtained such approval, OSM has the responsibility to make the investigations, evaluations, and inspections necessary to determine whether the State programs are being administered and enforced in accordance with the approved program provisions.

Since it is neither possible nor necessary to fully evaluate each program element and subelement every year, OSM's Albuquerque Field Office has developed a schedule (Appendix B) specifying when each element and subelement will be reviewed during a 3-year evaluation cycle. This schedule will be revised as necessary to respond to changing conditions within Utah and concerns identified by the public or OSM oversight activities. Comments regarding the oversight process, recommendations for additional review topics, and suggestions for improvement of future reports are encouraged and should be submitted to the Director of the Albuquerque Field Office. Because of the nature of the 3-year review cycle, some findings concern State performance prior to July 1, 1991. In these cases, the greatest emphasis is accorded to the most recent State actions reviewed.

Set forth below are the summary findings of the Director of OSM's Albuquerque Field Office regarding the performance of the Utah Division of Oil, Gas and Mining, the State Regulatory Authority, for the period July 1, 1991, through June 30, 1992. Detailed background information and comprehensive element-specific reports are available at the Albuquerque Field Office.

II. List of Acronyms

AFO	Albuquerque Field Office
AML	Abandoned Mine Land(s)
AMLIS	Abandoned Mine Lands Inventory System
AMLR	Abandoned Mine Land Reclamation
AMR	Abandoned Mine Reclamation
AVS	Applicant Violator System
CO	Cessation Order
DOGM	Division of Oil, Gas and Mining
EY	Evaluation Year
LSCI	Last State Complete Inspection

NOV	Notice of Violation
OSM	Office of Surface Mining Reclamation and Enforcement
PAD	Problem Area Descriptions
PAP	Permit Application Package
POV	Pattern of Violations
RSI	Random Sample Inspection
SMCRA	Surface Mining Control and Reclamation Act of 1977
TDN	Ten-Day Notice

III. Executive Summary

DOGM's accomplishments for EY 1992 included resolving issues relating to permit transfers and maintenance of the AVS. DOGM also resolved problems relating to filing inspection reports for bond forfeiture sites, maintaining complete citizen complaint files, tracking complaint activity, and responding to complainants within programmatic timeframes. As noted in the Summary Findings, DOGM's performance was satisfactory in determining administrative completeness of new permit applications and interacting with other government agencies during the review.

DOGM and AFO have been coordinating to establish a system for electronic transfer of inspection and enforcement data between offices. When fully functional, this data transfer system will greatly enhance the quality and timeliness of data exchange between offices. DOGM has been fully cooperative in this effort and is committed to ensuring its success.

Several issues that have been discussed in previous EY's remain unresolved at the end of EY 1992. These unresolved issues are discussed in Section VI. OSM and DOGM continue to discuss these issues. A significant issue for which an agreement was reached near the end of EY 1992 and the beginning of EY 1993 was the issue of permitting haulroads. OSM and DOGM addressed this issue through a Settlement Agreement. OSM vacated the Federal NOV's issued to three mines and DOGM dropped its lawsuit against OSM regarding disapproval of DOGM's proposed haulroad rules. At this time, OSM and DOGM are fulfilling the remaining Settlement Agreement conditions.

OSM awarded DOGM over \$16.7 million to run its AMR Program since the State Reclamation Plan was approved effective June 3, 1983. Of that amount, more than \$10.8 million was awarded to reclaim 34 coal and 8 noncoal projects and to maintain completed projects. Almost \$5.9 million has been awarded to date for costs of administering the program.

DOGM started five reclamation projects during the 1992 evaluation period. Accomplishments included completion of 5 coal projects and 1 noncoal project and substantial completion of two additional coal projects. About 28 acres were reclaimed. Accomplishments also included project maintenance, distribution of about 40,000 workbooks on AML hazards to fourth grade school children, assisting the National Park Service with project planning for two projects, and continued project planning and engineering.

DOGM's volunteers and other State and local entities and landowners assisted with hazard abatement and increasing public awareness. Since the volunteer effort started about 4 years ago, hazards associated with 61 portals and 25 vertical shafts have been abated in addition to those reclaimed with funding provided by the Abandoned Mine Reclamation Fund. Of those, 22 portals and 8 vertical shafts were closed during the period summarized by this report. These efforts, combined with the cooperation of the people of Utah, continue to be instrumental in keeping the number of reported abandoned mine related hazards relatively low.

IV. Overview of the Utah Coal Mining Industry

Coal is found beneath approximately 18 percent of the State, but only 4 percent is considered minable at this time. The demonstrated coal reserve base is about 6.4 billion tons, 1.3 percent of the National reserve base. Most of Utah's coal resources are held by the Federal Government and Indian Tribes.

The coal fields are divided into the Northern, Central, Eastern, and Southwestern Utah coal regions. The most productive region is the Central Utah Coal Region which includes the Book Cliffs, Wasatch Plateau, and Emery Coal Fields. There are vast, substantially undeveloped coal fields in the Southwestern Utah coal region. Development of these fields will probably be difficult because of environmental concerns resulting from the proximity to National Parks and other recreation areas.

Most of the coal is bituminous and is of Cretaceous Age. The BTU value is high compared to other western States. Sulfur content ranges from medium to low in the more important coal fields.

Most current operations mine seams that exceed 8 feet in thickness. All coal production is from underground mining. There are 32 inspectable units, 27 of which are currently operating. There are 120,000 acres of land currently under permit for mining with approximately 2,400 acres disturbed. Coal production has been steadily increasing since the early 1970's, producing almost 22 million tons in 1991. Utah's coal industry employs approximately 2,500 miners.

The climate of the Central Utah Coal Region is characterized by hot, dry summers and cold, relatively moist winters. Normal precipitation varies from 6 inches in the lower valleys to more than 40 inches on some high plateaus. The growing season ranges from 5 months in some valleys to only 2-1/2 months in mountainous regions. These extreme climatic conditions make reclamation difficult.

Hazards associated with mines abandoned prior to SMCRA are varied, numerous, and widespread. Coal mine hazards most commonly include open vertical shafts, open portals often accompanied by methane emission, deteriorated structures, burning coal piles, unstable mine waste piles, underground coal mine fires, subsidence, and erosion of waste material into streams. Most abandoned coal mines are found in the Central Utah Coal Region where much of the State's coal mining took place, though they can be found in the southwestern, southcentral, and northeastern areas of Utah as well. DOGM has 101 coal PAD's in its inventory, many of which already have been reclaimed. Noncoal abandoned mine hazards number in the thousands and are found throughout the State. Noncoal abandoned mine hazards most commonly include open vertical shafts, open portals, deteriorated structures, unstable waste piles, and subsidence.

A number of incidents involving abandoned mines occurred during this period. Two incidents involved injuries. One person was injured by falling into a vertical noncoal shaft while snowboarding. Another person was injured by falling into a winze located inside a noncoal mine after vandalizing a grated mine closure constructed by DOGM. One of the rescuers also was injured in that incident while removing the grated closure. DOGM responded to discovery of other high-priority hazards, two of which included: A 1,000-foot deep drill hole that opened up discharging water and methane in the front yard of a residence; and a vertical shaft previously closed in a noncoal AMR project near a residential area that opened when a larger area around the closure collapsed. These incidents were addressed as a coal project and as noncoal maintenance, respectively, through DOGM's normal grants process. Fortunately, no deaths related to abandoned mine lands were reported during the 1992 evaluation year.

Twenty-three reported incidents involving abandoned mines have occurred since May 1982. Thirteen incidents involved injuries to people, three of which resulted in fatalities. Twenty involved abandoned noncoal mines.

V. Success in Achieving the Purposes of SMCRA

As previously stated, there are 120,000 acres permitted in Utah for mining operations, all of which are underground mining operations. Of this permitted area, 2,443 acres have been disturbed. Since approval of the State program, 156 acres have been reclaimed on 7 sites and are awaiting various stages of bond release. So far, there

have been no final bond releases. The surface disturbance associated with underground mines is very small compared to the number of acres permitted and it generally changes very little from the time mining begins until final reclamation operations are initiated. This makes it very difficult to quantify reclamation success through yearly comparisons of acres disturbed, regraded, and revegetated.

Reclamation of roads and highwall elimination are major concerns as they relate to achieving the purposes of SMCRA. As discussed elsewhere in this Report, Utah is currently amending its program to ensure that it is "no less stringent than" SMCRA in regard to highwall reclamation requirements and to be "no less effective than" the Federal regulations in regard to permitting haulroads.

Timeliness of reclamation at bond forfeiture sites remains a concern as it relates to overall reclamation success. Due to the inherent difficulties in collecting forfeited bonds and converting collateral property bonds to cash, reclamation of forfeiture sites is often an unavoidably lengthy process. DOGM's actions toward reclamation of bond forfeiture sites has been diligent with the exception of one site where the bond was forfeited in October 1986, collected in August 1988, and the site was not reclaimed at the end of the evaluation year. The site has reportedly been reclaimed since the end of the evaluation year. Although DOGM has been diligent in its actions at other sites, due to difficulties in collecting bonds, reclamation has not been achieved at three additional sites. OSM cited this as a concern in the 1991 Annual Evaluation Report as it relates to overall reclamation success, and it remains a concern at this time.

Reclamation of abandoned sites completed by DOGM and as a result of volunteer assistance during this period eliminated safety and environmental hazards posed by 330 mine openings, 12 deteriorated structures, 11 methane problems associated with mine openings, and over 10 acres of mine refuse piles. DOGM's reclamation restored about 28 acres of mined land to a condition that will be more compatible with surrounding areas and will be of greater use to the people and wildlife of Utah than if left unreclaimed. In that context, reclamation achieved the purposes of SMCRA.

VI. Status of Issues from Previous Annual Evaluation Reports

During previous EY's, OSM identified significant issues that impact the overall effectiveness of Utah's program. These issues include permitting as well as enforcement problems. During EY 1992, OSM and DOGM agreed to certain actions that were needed to resolve these issues. As a result of these efforts, issues relating to procedures for processing permit transfers and maintenance of the Applicant Violator System were resolved. Although some progress has been made toward resolution of the remaining issues, these program issues need to be completely resolved both programmatically and through on-the-ground efforts.

The significant issues relating to DOGM's program that continue to need improvement include: (1) approval of permit renewals; (2) highwall elimination; and

(3) citation of violations. The EY 1991 problem with renewal of permits that had extensive technical deficiencies was not resolved. OSM and DOGM agreed to a Settlement Agreement regarding the outstanding litigation involving roads. OSM is currently reviewing a proposed State program amendment regarding highwall elimination requirements, that, when found approvable by OSM, should eliminate the issue of inappropriately retained highwalls. During EY 1992, DOGM appears to have improved, to some extent, in regard to citing violations; however, this 6-year old issue cannot be considered resolved.

The status of remaining issues identified in previous Annual Evaluation Reports is as follows:

Incomplete transmittal of permitting information to OSM was resolved.

Timeliness in processing revisions resulting from TDN's/TDL's has been an issue in previous reports. There was not enough activity in this area this year to evaluate this issue.

DOGM no longer grouped dissimilar violations under a single part of an NOV, and no longer terminated enforcement actions prior to completion of the specified remedial actions. However, DOGM continued to terminate enforcement actions based only on plan submittal rather than on plan approval and completion of on-the-ground abatement measures.

During EY 1992, DOGM exceeded the programmatic timeframe for assessing proposed civil penalties 31 percent of the time, indicating that further refinement in this program area is still needed.

DOGM has not followed through with statutory changes and amendments to the State program that it proposed during EY 1991 to resolve concerns relating to informal hearing and assessment conference processes. DOGM indicated that it still plans to make these changes.

At the end of the evaluation year, DOGM had not reclaimed a bond forfeiture site for which it collected the bond monies in 1988. This was reportedly completed later in 1992. DOGM now files inspection reports for inspections that it conducts at bond forfeiture sites.

No significant issues were noted in OSM's evaluation of DOGM's AMR Program in the previous report.

VII. Actions Affecting Program Implementation

The Southern Utah Wilderness Alliance and the Utah Chapter of the Sierra Club requested that OSM evaluate the Utah State program and consider withdrawing approval of the program pursuant to 30 CFR Part 733. OSM responded that withdrawal of State primacy was not warranted.

DOGM challenged in Federal District Court OSM's partial disapproval of a proposed State program amendment relating to roads. OSM and DOGM settled the litigation and Utah withdrew its suit.

During EY 1992, no external actions occurred that affected implementation of the AMR Program.

VIII. Summary Findings

A. Regulatory Program

Regulatory Program Element 1: Permitting Actions

Sub-elements Reviewed: A.1. Processing of new mining permit applications; A.1.1. AVS operation, maintenance and use; A.3. Processing of notices of intent to explore. A.4. Processing of applications for permit revisions, transfers, assignments, and sales. A.6. Midterm permit reviews; and L.1. Technical subject evaluation - processing of hydrologic information.

Type of Review: 2, 2, 2, 2, 2, and 3(c).

Summary Findings: During EY 1992, OSM reviewed the administrative and correspondence files of two PAP's that DOGM was reviewing. DOGM processed these PAP's appropriately and in accordance with the approved State program. DOGM's actions in determining administrative completeness and in interacting with other governmental agencies were complete and in accordance with the approved program. DOGM ensured that the PAP's were complete and accurate.

OSM continuously reviewed DOGM's use of the AVS. DOGM used and maintained the AVS in a manner that is consistent with its regulations and the Memorandum of Understanding with OSM. Problems noted last year with incorrect information in the AVS database were rectified.

OSM reviewed all Notices of Intent to Explore (NOI's) that DOGM processed. DOGM processed NOI's in accordance with its regulations. DOGM interacts appropriately with necessary Federal agencies involved in the planned exploration projects.

DOGM processed permit revisions, transfers, sales and assignments in a manner consistent with its approved regulations. During this EY, actions taken regarding permit transfers resolved the concerns noted in the 1991 Evaluation Report.

OSM reviewed DOGM's processing of three midterms that were conducted during EY 1992. DOGM accomplished its midterm reviews in a timely and appropriate manner. Assessment of the permit's adequacy and accuracy was complete and the problems found were resolved in a judicious manner.

During OSM's EY 1991 review of permitting renewals, it was determined that there were comments from governmental agencies and interested parties that alleged negative impacts were occurring to the hydrologic regimes at three mines. This resulted in a review of DOGM's processing of hydrologic information by OSM hydrologists. OSM determined that DOGM's technical staff was doing a good job in identifying deficiencies in the hydrologic information in permit applications but that DOGM was not reviewing information submitted in response to the deficiencies in a timely manner. This issue of timeliness remains unresolved, but the potential of environmental significance is less than originally believed because the actual ground situation has changed or the Federal Land Management Agency has taken steps to address problems.

1992 ANNUAL REPORT FOR UTAH

Two problems were reported in the EY 1991 report, permit renewal methodology and the permitting of haul and access roads. In the permits that OSM reviewed, DOGM continued to renew permits with significant technical deficiencies in the PAP. Under terms of the agreement with OSM, DOGM will not have to permit existing access and coal haul roads.

One problem reported in EY 1990, transmittal of information to OSM, was resolved. Continuous review throughout the year determined that permitting and inspection and enforcement information was generally transmitted to OSM in a timely manner.

Regulatory Program Element 2: Bonding

Sub-elements Reviewed: B.2. Computation and adequacy; and B.7. Forfeiture.

Type of Review: 4 and 2.

Summary Findings: During EY 1992, OSM reviewed the correspondence and administrative files of four PAP's. DOGM set bond amounts that were adequate to allow a third party to accomplish the approved reclamation plan. DOGM improved its recordkeeping and bond document administration since this subelement was reviewed during EY 1990. DOGM took appropriate action in processing the forfeiture of bond at three minesites during the last three evaluation periods. Generally, DOGM made a diligent effort to fulfill its obligations. This included marketing the real estate that was posted as bond collateral and initiating the bid process for third party reclamation.

DOGM assessed the possibility of litigation for additional monies if reclamation costs exceeded the amount of bond forfeited at one mine; however no such action has been initiated by the close of the EY.

During its EY 1991 review of site reclamation of bond forfeiture sites, OSM found that DOGM was untimely in reclaiming one site. At this particular site, DOGM forfeited the bond in 1986 and collected it in 1988. OSM continued discussions with DOGM into EY 1992 concerning reclamation of this site. The site remained unreclaimed at the end of EY 1992; however, DOGM completed reclamation of this site before the end of the 1992 calendar year.

Regulatory Program Element 3: Inspections

Sub-elements Reviewed: C.1. Inspection frequency and procedures; C.2.a. Inspection reports - accuracy and completeness; C.2.b. Inspection reports - documentation of violations, site conditions, and mine activity status; C.3. Maintenance of inspectable units list and inspection database; C.4. Handling of citizen complaints and request for inspections.

Type of Review: 2,2,2,2, and 3(e).

Summary Findings: DOGM conducted 244 partial and 133 complete inspections on 32 inspectable units. DOGM met the required frequency of inspection for 96 percent of all active and 100 percent of all inactive sites. DOGM is in compliance with requirements for conducting inspections on exploration sites to ensure compliance with the State program. DOGM met the required frequency of inspections on 33 percent of the abandoned sites (Tables 3 and 4).

OSM reviewed State inspection reports by selecting a 25 percent sample of inspectable units from EY 1990, a 25 percent sample from EY 1991, and a 100 percent sample from the first 8 months of EY 1992. This sample included 429 inspection reports. OSM found that, on complete inspections, DOGM generally documented, by using an inspection checklist, that all records were reviewed and all performance standards and permit requirements were evaluated for the entire permit area. DOGM also adequately documented which performance standards and permit requirements were evaluated during partial inspections. One problem often noted for complete and partial inspections was that the information contained on the inspection checklist often did not agree with the information contained in the inspection report narrative. Inspection report narratives generally did not contain an adequately detailed description of the permit status and site conditions. In most cases, DOGM adequately described the seriousness of the observed violations and enforcement actions taken or modified, vacated, or terminated in the cases where inspection reports were written. However, during EY 1992, OSM identified four instances where DOGM took enforcement actions resulting from inspections but did not write inspection reports. OSM also identified a more commonly occurring problem: inspection reports did not describe the status of enforcement actions from one report to the next. In this regard, inspection report narratives did not exhibit continuity with and cognizance of conditions discussed in previous inspection reports. DOGM management initiated briefings with inspectors concerning inspection report contents to resolve these problems. DOGM is also considering revising its report format to promote accuracy and consistency.

Through a review of DOGM's database, OSM determined that DOGM adequately maintained an inspectable units list and inspection database.

OSM reviewed DOGM's citizen complaint files during EY 1991, and found that it did not maintain complete files, did not adequately track citizen complaint activity, and did not always respond to complainants within the specified timeframes. During EY 1992, OSM conducted a follow-up review of these problems and found them resolved.

Regulatory Program Element 4: Enforcement

Sub-elements Reviewed: D.1. Identification and citation of violations; D.2. Notices of violation and cessation orders; D.3. Pattern of violation reviews/show cause orders and Hearings; D.4. Timeliness and effectiveness of alternative enforcement actions; and D.5. Responses to ten-day notices.

Type of Review: 3(d), 2, 2, 2, and 2.

Summary Findings: In every evaluation report since 1987, DOGM's performance in citing violations was identified as a problem. During EY 1991, DOGM implemented an inspection and enforcement policy that was designed to correct this deficiency. During EY 1992, OSM observed 16 violations that it believed to have existed during the LSCI. Of these 16 LSCI violations, DOGM cited 4 (25 percent) during the LSCI and did not cite 12 (75 percent). During EY 1991, DOGM's citation rate during LSCI's was 7 percent. The 1991 data was based on a 100 percent inspection sample while the 1992 data is based on a 50 percent inspection sample. The EY 1992 data indicated that improvement is still needed in identifying and citing violations when unaccompanied by OSM.

During the RSI's, DOGM cited 8 of the 12 previously uncited LSCI violations. OSM addressed the remaining 4 violations through the issuance of TDN's. In addition to the LSCI violations, OSM observed 14 violations that it believed to have occurred after the LSCI. Of these 14 violations, DOGM properly cited 13 during or before the RSI, and the operator immediately corrected one violation during the RSI. This data reflected that DOGM is more cooperative in citing violations when accompanied by OSM than it was during past EY's, continuing a positive trend noted during the EY 1991.

Of the 16 LSCI violations observed by OSM during RSI's, 12 had a minor degree of impact and 4 had a moderate degree of impact (Table 10).

In addition to the violations noted above, OSM also observed 17 permit defects during RSI's. The existence of this many permit defects indicates that DOGM needs to implement a procedure, either through the midterm permit review process, the permit renewal process, or through other means, to ensure that permits accurately reflect existing, on-the-ground conditions. OSM plans to follow-up on this issue during EY 1993.

During EY 1991, OSM found that DOGM: (1) sometimes grouped dissimilar violations under a single part of an NOV rather than issuing an NOV with multiple parts; (2) DOGM sometimes terminated enforcement actions prior to completion of the remedial actions specified in the enforcement actions; and (3) DOGM sometimes terminated enforcement actions based on plan submittal rather than on plan approval and, where appropriate, performance of abatement measures. During EY 1992, OSM found that DOGM terminated 90 percent of its enforcement actions appropriately. OSM found that DOGM no longer grouped dissimilar violations under a single part of an NOV, and DOGM no longer terminated enforcement actions prior to completion of the remedial actions specified in the enforcement actions. OSM found that DOGM continued to terminate some enforcement actions based on either: (1) plan submittal rather than on plan approval and implementation;

1992 ANNUAL REPORT FOR UTAH

or (2) based on plan approval but not on plan implementation to correct on-the-ground conditions. OSM found six cases of this occurrence out of 60 enforcement actions that it reviewed. This was particularly true when erosion violations were cited. DOGM agreed to work toward preventing recurrence of this problem. OSM will review this aspect of NOV terminations during EY 1993 to ensure resolution.

During EY 1992, OSM conducted an in-depth evaluation of DOGM's POV reviews. OSM reviewed enforcement actions taken during EY 1990, EY 1991, and EY 1992 to determine if potential POV's existed. OSM also reviewed DOGM's internal system for monitoring patterns. DOGM conducted monthly pattern searches to identify potential POV's. DOGM's review system was thorough and in accordance with the approved program. Two identified potential patterns were still under the review process at the end of the EY.

OSM also conducted an in-depth review of the sub-element "Timeliness and Effectiveness of Alternative Enforcement Actions." The approved State program requires that DOGM pursue alternative enforcement action within 30 days through one of four alternatives when a Cessation Order (CO) issued for failure to abate a violation remains unabated after 30 days. Since the last review of this subelement, there have been two instances requiring alternative enforcement, both relating to the same permit. In both, DOGM did not initiate alternative enforcement within the 30 days required, nor had DOGM initiated such action at the end of EY 1992 - 11 months after such action should have been initiated.

During the EY, OSM issued seven TDN's addressing eight violations. DOGM generally responded to the TDN's within the ten-day period. OSM found DOGM's responses to TDN's to be appropriate in all cases except one; however, DOGM issued an NOV to have the violation corrected prior to OSM's follow-up inspection therefore, Federal enforcement was unnecessary.

Regulatory Program Element 5: Civil Penalties

Sub-elements Reviewed: E.1. Procedures.

Type of Review: 3(d).

Summary Findings: During EY 1990, OSM found that DOGM did not always assess proposed civil penalties within the 30-day timeframe specified by the approved program, assessing 67 percent of the proposed penalties late. At that time, the cause was determined to be that DOGM was waiting for termination of NOV's prior to proposing penalties. After discussions during quarterly meetings, DOGM increased its efforts to meet the 30-day timeframe. During EY 1991, OSM reviewed this subelement as a follow-up to the 1990 concerns, and found that DOGM had shown substantial improvement in adhering to these timeframes, assessing 22 percent of the proposed penalties late. During EY 1992, OSM reviewed this subelement again to ensure that the issue was completely resolved. Although the average time for assessment was 27 days, OSM found that 25 out of 81 (31 percent) of the proposed civil penalties were assessed late. The late assessments ranged from one day late to 23 days late, with the average being 12 days late. While this does not appear to be a significant problem, it does indicate a need for additional refinement in this program area. This subelement is scheduled to be reviewed again as part of the routine cyclical review, during EY 1993.

Regulatory Program Element 6: Administrative and Judicial Review**Sub-elements Reviewed:** F.1. Review procedures.**Type of Review:** 3(d).

Summary Findings: During past EY's, OSM found that DOGM's procedures for holding informal assessment conferences and informal hearings were not in accordance with its approved program. During EY 1991, DOGM made procedural changes to correct the majority of the problems. At that same time, DOGM proposed making statutory and program changes through the program amendment process to: (1) ensure a permanent correction of the problems; (2) resolve a discrepancy where DOGM provides informal hearings whenever requested by an operator rather than only when the enforcement action requires cessation of mining as currently provided at Utah R645-400-351; and (3) incorporate burden of proof procedures into the State program similar to those contained in the Federal administrative procedures.

DOGM has not followed through with the statutory and program changes that it previously proposed making. While the majority of the past problems were corrected through administrative changes, OSM believes that DOGM should follow through with the proposed formal program changes. DOGM indicated that it also agrees that these statutory changes and program amendments are still necessary. DOGM indicated that it plans to make changes to the State Administrative Procedures Act first, and subsequently make the remaining statutory and regulatory changes.

Regulatory Program Element 7: Designation of Lands Unsuitable for Mining

Sub-elements Reviewed: G.1. Processing of petitions; G.2. Maintenance of database and inventory system.

Type of Review: 2 and 2.

Summary Findings: OSM found that there are currently no lands in Utah designated as unsuitable for mining and there are no pending petitions. Due to the lack of activity in this program area, DOGM has had no need for a lands-unsuitable database and inventory system.

Regulatory Program Element 8: Blaster Certification

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings: This element was not selected for review during this EY. It is scheduled for review during EY 1993.

Regulatory Program Element 9: Small Operator Assistance

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings: This element was not selected for review during this EY. It is scheduled for review during EY 1994.

Regulatory Program Element 10: Maintenance of Approved Program

Sub-elements Reviewed: J.1. Notification of program changes; J.2. Responses to part 732 notifications; and J.3. Promulgation and implementation of approved program amendments

Type of Review: 2, 2, and 2.

Summary Findings: The EY 1991 report identified instances where changes were made to the Utah Statute that were not submitted to OSM. During this EY, each of those omissions were resolved by DOGM's submission and OSM's approval of program amendments for those discrepancies. During this EY, OSM performed detailed reviews of all amendments to the approved State program that were submitted by Utah. Neither OSM's inspectors nor other State or Federal agencies raised any concerns or issues that indicated that the State regulatory authority conducted activities that were not part of the approved State program. Consequently, OSM found that Utah appropriately notified OSM and received approval for changes to the State program prior to implementing them.

In most cases, DOGM did a good job in submitting approvable amendments to its program to resolve Part 732 notifications and to make its program "no less effective than" the Federal regulations and "no less stringent than" SMCRA. The only Part 732 letter issues that remain to be resolved concern the permitting of roads (required amendments n and o, dated November 22, 1991), the reclamation of highwalls (UT-730, dated January 17, 1992), and dust control on roads (issue D-5 of RRIII dated November 27, 1989). Three issues remain to be resolved from the Part 732 letter for ownership and control. Utah's formal amendment of February 28, 1992, adequately addresses the three ownership and control issues, however, by the end of the EY, OSM had not published the final rule approving the amendment.

DOGM promulgated and implemented approved program amendments in a timely manner. Utah usually promulgates its rules before submission to OSM as formal amendments. Whenever OSM does not approve a rule or approves a modified version of what Utah originally promulgated, the State then amends its program to incorporate the Federally approved wording. Originally the way DOGM published its approved amendments was somewhat confusing. It was difficult to distinguish between which rules were approved and those conditionally approved. DOGM revised the way it published and distributed copies of the revised versions of its rules by merging approved amendments into the existing rules. This facilitated the understanding and implementation of the currently approved program regulations and allowed operators to keep abreast of not only the complete set of rules, but where highlighted, of areas within the State's rules where the language was not to be read without consulting the Federal Register notice approving the rule.

Regulatory Program Element 11: Program Administration

Sub-elements Reviewed: K.1. Grants management; and K.2. Data management.

Type of Review: 2, and 3(d).

Summary Findings: OSM reviewed all documents received involving grant transactions. DOGM continues to administer and manage grants in accordance with the Department of Treasury, Department of the Interior, and Office of Management and Budget requirements. The Single Audit Report did not question any expenditures of the Utah Regulatory Program and did not identify any material weaknesses in the internal control systems used in the State's accounting practices. The State draws down Federal funds on a reimbursement basis, which exceeds Federal cash management requirements. Grant applications and reports were generally received on a timely basis and were found to be acceptable. Contact with State personnel revealed no significant concerns in grants management.

Through continuous review of various program functions, OSM found that DOGM has established and adequately maintains data management systems to meet its internal program needs as well as OSM's data management requirements. During EY 1992, a data management problem noted during the previous EY relating to maintenance of citizen complaint files was resolved.

VIII. Summary Findings

B. AMLR Program

AMLR Program Element 1: Project Planning

Sub-elements Reviewed: A.1. Inventory maintenance; A.2. Consideration of public comments; A.5. Rights of entry; and A.6. Lien eligibility determinations.

Type of Review: 2, 2, 2, and 2.

Summary Findings: DOGM maintains a complete, current, prioritized inventory of problem areas eligible for, and in need of, reclamation. During the period summarized by this report, DOGM updated the AMLIS with 26 PAD's. Seventeen PAD's covered problem areas not previously in AMLIS. The remaining PAD's were updated to reflect completed reclamation or new hazards in existing problem areas. DOGM also maintains a computerized inventory of prioritized noncoal hazards. Performance during the previous period in this respect was satisfactory. OSM's evaluation is based on review of 26 PAD's and a construction grant application submitted by DOGM.

DOGM adheres to the project ranking and selection process approved in its AMLR Plan. DOGM periodically updates its list of hazards in the AMLIS and its own computerized list of prioritized and ranked coal and noncoal hazards. DOGM provides for adequate public participation in the project selection process. Project files and grant applications contain documentation of efforts to involve the public in project selection. Performance in this respect during the previous period also was satisfactory. OSM's evaluation is based on review of construction grant applications and DOGM's files for seven projects.

DOGM acquired rights of entry prior to reclamation and used non-consensual entry procedures where they appeared to be necessary in accordance with its approved Plan. On one coal project, DOGM exercised non-consensual entry authority in addition to obtaining right of entry because of pending foreclosure proceedings against the owner(s). OSM's evaluation is based on its review of realty files for 12 projects and discussions with DOGM staff.

No liens were assessed on reclaimed projects during this period. DOGM determined if real estate parcels within project areas might be subject to liens prior to reclamation and contracted for pre- and post-construction appraisals of those parcels.

Utah's Administrative Code gives DOGM discretionary authority " * * * to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the fair market value * * *." Utah's Code also provides that a lien " * * * may be waived by the Board if the reclamation work performed on private land primarily benefits health, safety, or environmental values of the greater community or area in which the land is located * * *." DOGM waived liens during this evaluation period and at the end of the previous period using the criterion that reclamation primarily benefits health, safety, or environmental values of the the greater community or area in which the reclaimed land is located based on its position that the Board's authority to do so is delegated to DOGM. DOGM contracted for professional appraisals where staff appraisals indicated relamation might affect fair market value and those parcels are not covered by the waivers in question. The determination of community benefit as a result of reclamation is not in question, either.

The Division is working to update the Utah Code to change the references from the Board having authority to assess liens to the Division. Those changes will convert all references for authority in regard to lien decisions from "Board" to "Division." The rule will be revised once Utah's statute is revised, which DOGM plans to have before the Legislature in 1993. In the meantime, DOGM will continue to assume responsibility for lien administration, while rule and statute changes are being made, with the Board's knowledge and understanding of this discrepancy.

DOGM's lien determinations were not summarized in the report for the previous evaluation period; OSM's review showed that use of the community benefit provision for waivers appeared to begin in mid-June 1991. OSM's evaluation is based on review of realty files for 14 projects and discussions with DOGM staff.

AMLR Program Element 2: Project Construction

Sub-elements Reviewed: B.1. Construction management; B.2. Post construction monitoring and evaluation; B.4. Project maintenance; and B.5. Lien recording and maintenance.

Type of Review: 2, 2, 2, and 2.

Summary Findings: DOGM effectively used staff resources and the construction season to achieve program objectives and project goals. Reclamation was consistent overall with project specifications and grant proposals while providing for changes to accommodate site-specific conditions. Projects complied with special permit conditions and impact mitigation measures. Additionally, DOGM staff monitored construction satisfactorily. This topic was not evaluated in OSM's report for the previous period. OSM's evaluation is based on review of a construction grant and amendment, semi-annual grant reports, and specifications for seven projects. It is also based on OSM's eight visits to seven proposed projects, 11 visits to six projects under construction, and six visits to six reclaimed projects during the period.

DOGM monitors completed projects to determine maintenance needs, to determine if reclamation is successful, and to determine if reclamation techniques and design alternatives accomplished site-specific project goals. DOGM does not specifically schedule visits to a sample of completed projects to evaluate maintenance needs or to evaluate the effectiveness of completed reclamation as suggested by the March 6, 1980, final AML guidelines. Instead, DOGM checks reclamation whenever its staff are in the vicinity of completed projects. Overall, reclamation achieves project goals for site restoration and long-term hazard abatement. This topic was not evaluated in the report for the previous period. OSM's evaluation is based on review of files for 12 projects and discussions with AMR Program staff. It is also based on OSM's six visits to six reclaimed projects during the period.

DOGM did not assess any liens during the 1992 evaluation period. It awarded contracts for realty appraisals on two projects on which it believed reclamation might affect fair market value. The results of the appraisals were not final by the end of the period because reclamation of the projects was not completed. DOGM periodically notifies one landowner of the continuing lien assessed on its reclaimed coal loadout in July 1985.

AMLR Program Element 3: Program Administration

Sub-elements Reviewed: C.1.c. Timeliness of applications and reports.

Type of Review: 2.

Summary Findings: DOGM submitted AML grant applications and reporting documents in a generally timely manner during this evaluation year. It performed similarly during the previous period. OSM's evaluation is based on review of grant applications, semi-annual reports, and final financial reports submitted by DOGM during the year.

Drawdowns and disbursements, accounting procedures, maintenance of internal controls, audits and implementation of audit recommendations, procurement and management of property and services, data management, coordination with other agencies, and management and disposal of abandoned mine lands were not scheduled to be summarized in OSM's evaluation report for this period. OSM's report for the 1993 period will evaluate drawdowns and disbursements, accounting procedures, audits and implementation of audit recommendations, and management and disposal of abandoned mine lands. The evaluation report for the 1994 period will cover maintenance and internal controls, and procurement and management of property and services.

AMLR Program Element 4: Maintenance of approved reclamation plan

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings: The Maintenance of Approved Reclamation Plan element was not scheduled to be evaluated for the 1992 Evaluation Year. It will be evaluated in OSM's reports during EY's 1993 and 1994.

APPENDIX A

Tabular Summaries of Data Pertaining to Mining, Reclamation and Program Administration

These tables present data pertinent to mining operations, State and Federal regulatory activities and the reclamation of abandoned mines within Utah. They also summarize funding provided by OSM and Utah staffing. Unless otherwise specified, the reporting period for the data contained in all tables is the 1992 evaluation year (July 1, 1991 - June 30, 1992). Additional data used by OSM in its evaluation of Utah's performance is available for review in the evaluation files maintained by the Albuquerque Field Office.

TABLE 1

COAL PRODUCTION (Millions of Short Tons)			
Calendar year	Surface mines	Underground mines	Total
1989	0	20.8	20.80
1990	0	21.6	21.60
1991	0	21.9	21.90

TABLE 2

INSPECTABLE UNITS (As of June 30, 1992)												
Coal mines and related facilities	Number and status of units									Acreage ^A (hundreds of acres)		
	Active		In temporary cessation	In reclamation		Abandoned		Totals				
	IP	PP	PP	IP	PP	IP	PP	IP	PP	IP	PP	Total
STATE and PRIVATE LANDS												

TABLE 3

STATE INSPECTION ACTIVITY								
Type of inspectable unit	Number of inspections conducted		Percent of required inspections conducted ^A		Inspectable units for which State met required inspection frequency			
	Complete inspections	Partial inspections	Complete inspections	Partial inspections	Complete inspections		All inspections	
COAL MINES AND FACILITIES					Number	%	Number	%
Active	113	220	99	100	26	96	26	96
Inactive	8	3	100	N/A	2	100	2	100
Abandoned	12	21	92	92	2	67	1	33
Totals	133	244	98	99	30	94	29	91
Exploration permits ^B	0	0	N/A	N/A	N/A		N/A	
Exploration notices ^B	12	0	N/A	N/A	N/A		N/A	

^A Calculated on a site-specific basis. Excess complete inspections are considered partial inspections. For each site, any inspections in excess of the total number required by the approved program are not included.

^B Includes all valid or unreclaimed notices and permits. No inspection frequency data are provided since SMCRA does not establish a minimum numerical inspection frequency for coal exploration activities.

TABLE 4

TRENDS IN INSPECTABLE UNITS AND STATE INSPECTIONS				
Evaluation Year		1990	1991	1992
Inspectable units for which State has primacy jurisdiction				
Surface mines:	Active	0	0	0
	Inactive	0	0	0
	Abandoned	0	0	0
Subtotals for surface mines		0	0	0
Underground mines:	Active	22	23	22
	Inactive	4	3	3
	Abandoned	2	2	3
Subtotals for underground mines		28	28	28
Other facilities:	Active	4	4	4
	Inactive	0	0	0
	Abandoned	0	0	0
Subtotals for other facilities		4	4	4
All mine types:	Active	26	27	26
	Inactive	4	3	3
	Abandoned	2	2	3
Totals		32	32	32
Exploration permits		1	1	1
Exploration notices		8	11	12
State inspections conducted				
Complete		136	143	145
Partial		245	222	244
Totals		381	365	389
Percent of required State inspections conducted				
Complete inspections		99	100	98
Partial inspections		100	100	99
Citizen complaints received		2	3	3

TABLE 5

STATE AND OSM ENFORCEMENT ACTIVITY						
Type of enforcement action taken	Actions taken by State		Actions taken by OSM on:			
			Sites where State is the primary regulatory authority		*Sites where State is NOT the primary regulatory authority	
	Number of actions	Number of violations	Number of actions	Number of violations	Number of actions	Number of violations
Notice of violation issued	71	85	0	0	N/A	N/A
Imminent harm cessation order issued	2	2	0	0	N/A	N/A
Failure-to-abate cessation order	3	4	0	0	N/A	N/A
Show cause order issued for pattern of violations	0	N/A	N/A	N/A	N/A	N/A
Permit suspended ^A	0	N/A	N/A	N/A	N/A	N/A
Permit revoked		N/A	N/A	N/A	N/A	N/A
Individual civil penalty assessed	0	0	0	0	N/A	N/A
Criminal penalty requested	0	0	0	0	N/A	N/A
Criminal penalty assessed	0	0	0	0	N/A	N/A
Injunction requested	0	0	0	0	N/A	N/A
Injunction obtained	0	0	0	0	N/A	N/A
Settlement agreement approved in lieu of further enforcement action	0	0	0	0	N/A	N/A
N/A: Not Applicable ^A Average duration of permit suspension: <u>N/A</u> Utah <u>N/A</u> OSM						

*The State is the primary regulatory authority on all sites in Utah.

TABLE 6

OSM INSPECTIONS OF SITES WHERE THE STATE IS THE PRIMARY REGULATORY AUTHORITY						
Annual random sample size (from Directive INE-20): <u>100%</u>						
Type of unit inspected	Type of inspection					Totals
	Random sample	State bond release	Other oversight	Ten-day notice followup ^A	Enforcement action followup	
Surface mines	0	0	0	0	0	0
Underground mines	14	1	1	0	0	16
Preparation plants	2	0	0	0	0	2
Other facilities	0	0	0	0	0	0
Subtotals	16	1	1	0	0	18
Exploration permits	0	0	0	0	0	0
Exploration notices	0	0	0	0	0	0
Totals	16	1	1	0	0	18
Active	15	1	1	0	0	17
Inactive	1	0	0	0	0	1
Abandoned	0	0	0	0	0	0
Initial program	0	0	0	0	0	0
Permanent program	16	1	1	0	0	18
^A When State response is inappropriate and Federal inspection is necessary.						

TABLE 7

**OSM INSPECTIONS OF SITES WHERE THE STATE IS NOT
THE PRIMARY REGULATORY AUTHORITY***

Type of unit inspected	Type of program under which inspections were conducted							
	Federal lands ^A		Indian lands		Other		Totals	
	Complete insp.	Partial insp.	Complete insp.	Partial insp.	Complete insp.	Partial insp.	Complete insp.	Partial insp.
Surface mines	0	0	0	0	0	0	0	0
Underground mines	0	0	0	0	0	0	0	0
Preparation plants	0	0	0	0	0	0	0	0
Other facilities	0	0	0	0	0	0	0	0
Subtotals	0	0	0	0	0	0	0	0
Exploration permits	0	0	0	0	0	0	0	0
Exploration notices	0	0	0	0	0	0	0	0
Totals	0	0	0	0	0	0	0	0
Active	0	0	0	0	0	0	0	0
Inactive	0	0	0	0	0	0	0	0
Abandoned	0	0	0	0	0	0	0	0
Initial program	0	0	0	0	0	0	0	0
Permanent program	0	0	0	0	0	0	0	0

^A In those States that have not entered into a State - OSM cooperative agreement providing for State regulation of mining and exploration on Federal lands.

*This table is not applicable to Utah because the State is the primary regulatory authority on all sites.

TABLE 8

OSM RANDOM SAMPLE INSPECTION COMPLIANCE FINDINGS		
Number of sites inspected..... <u>16</u>		
Number of violations per inspectable unit	Inspectable units with indicated number of violations observed by OSM ^A	
	Number	Percent ^B
None	5	31
1	6	38
2	1	6
3	2	13
4	0	0
5	0	0
6	1	6
7	0	0
8	1	6
9	0	0
10	0	0
More than 10	0	0
<p>^A Does not include violations in ten-day notices on appeal to the Deputy Director or that have not been affirmed on appeal.</p> <p>^B Percent of total number of sites inspected on which indicated number of violations were observed.</p> <p><u>Note:</u> This table differs from Tables 9 and 10 in that it depicts the number of violations observed by OSM inspectors on random sample inspections in Utah during FY 1992 without regard to when the violation occurred. It provides a general indication of how effectively the industry has incorporated environmental protection into its standard operating procedures. Because States cannot control the incidence of violations, this table should not be interpreted as an indicator of State performance. Also, since this table is intended to reflect only the extent of industry compliance at the time of the OSM random sample inspection, it excludes all violations previously cited by the State which no longer exist at the time of the OSM inspection.</p>		

TABLE 9

DISTRIBUTION OF VIOLATIONS ^A ON OSM RANDOM SAMPLE INSPECTION SITES BY PERFORMANCE STANDARD			
Performance standard category	Violations present at time of last State complete inspection		Other violations observed by OSM
	Number cited by State	Number uncited by State	
Mining Within Permit Boundaries	0	2	0
Signs and Markers	0	1	1
Sediment Control Measures	1	3	5
Design and Certification Requirements-Sediment Control	0	1	0
Effluent Limits	1	0	0
Ground Water Monitoring	0	1	0
Topsoil Handling	0	0	2
Backfilling & Grading	0	0	4
Following Reclamation Schedule	0	1	0
Revegetation Requirement	0	0	1
Disposal of Excess Spoil	0	1	0
Other:			
Non-Coal Waste	1	0	1
Liability Insurance	0	1	0
Coal Waste Fire	0	1	0
Ownership/Control	1	0	0
Totals	4	12	14
^A Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.			
Note: For all sites on which OSM conducted random sample inspections in Utah during EY 1992, this table provides a breakdown by performance standard of the number of violation that were present at the time of the last State complete inspection (LSCI), including those previously cited by the State and no longer present at the time of the OSM inspection. It also categorizes these violations by whether they were cited or uncited by the State inspector at the time of the LSCI. In addition, the last column categorizes all other OSM observed violations on these sites by the type of performance standard violated.			

TABLE 10

SERIOUSNESS OF VIOLATIONS^A
PRESENT AT TIME OF LAST STATE COMPLETE INSPECTION
(On OSM Random Sample Inspection Sites)

SERIOUSNESS OF VIOLATIONS ^A PRESENT AT TIME OF LAST STATE COMPLETE INSPECTION (On OSM Random Sample Inspection Sites)								
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS REMAINING WITHIN PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of impact or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
None or unlikely	1	5	0	0	0	0	1	5
Likely	3	1	0	4	0	0	3	5
Occurred	0	1	0	0	0	0	0	1
Subtotals	4	7	0	4	0	0	4	11
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS EXTENDING OUTSIDE PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of actual or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
None or unlikely	0	0	0	0	0	0	0	0
Likely	0	0	0	0	0	0	0	0
Occurred	0	1	0	0	0	0	0	1
Subtotals	0	1	0	0	0	0	0	1
NUMBER OF ADMINISTRATIVE (RECORDKEEPING) VIOLATIONS								
	Degree of obstruction to enforcement						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
	0	0	0	0	0	0	0	0
ALL TYPES OF VIOLATIONS								
	Degree of impact or obstruction						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
TOTALS (entire table)	4	8	0	4	0	0	4	12
^A Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.								
^B Violations cited by the State at the time of the last State complete inspection.								
^C Violations not cited by the State at the time of the last State complete inspection.								
Note: For all sites on which OSM conducted random sample inspections in Utah during EY 1992, Table 10 summarizes the seriousness of those violations which existed at the time of the last State complete inspection (LSCI), including those violations which were previously cited by the State but no longer exist at the time of the OSM inspection. It also characterizes the seriousness of these violations according to whether they were cited by the State at the time of the LSCI.								

TABLE 11

CITIZEN COMPLAINTS		
Number of complaints	State	OSM
Action pending as of July 1, 1991	0	0
Complaints received in EY 1992	3	0
Complaints referred to State	N/A	0
Complaints investigated	3	0
Responses provided to complainant	3	0
Action pending as of June 30, 1992	0	0

TABLE 12

PERMIT APPLICATIONS RECEIVED BY STATE				
Type of application	Surface mines	Underground mines	Other facilities	Totals
New permits	0	1	0	1
Renewals	0	8	0	8
Transfers, sales and assignments of permit rights	0	6	2	8
Small operator assistance	0	0	0	0
Exploration permits	0	0	0	0
Totals	0	15	2	17

TABLE 13

STATE PERMITTING ACTIONS (Applications Approved and Authorizations to Operate Issued)								
Type of application	Surface mines		Underground mines		Other facilities		Totals	
	No.	Acres	No.	Acres ^A	No.	Acres	No.	Acres
New permits	0	0	0	0	0	0	0	0
Renewals	0	0	8	674	0	0	8	674
Revisions (exclusive of incidental boundary revisions)	0	N/A	N/A	N/A	0	N/A	0	N/A
Incidental boundary revisions	0	N/A	0	N/A	0	N/A	0	0
Transfers, sales and assignments of permit rights	0	N/A	6	N/A	2	N/A	8	N/A
Small operator assistance	0	N/A	0	N/A	0	N/A	0	N/A
Exploration permits	0	N/A	0	N/A	0	N/A	0	N/A
Exploration notices ^B	0	N/A	0	N/A	0	N/A	0	N/A
Totals	0	0	14	674	2	0	16	674
Number of permits identified by OSM as being improvidently issued ^C							0	
Number of improvidently issued permits for which the State took appropriate corrective action. . . .							0	
N/A: Not applicable.								
^A Includes only the number of acres of proposed surface disturbance.								
^B State approval not required. Does not involve either removal of more than 250 tons of coal or lands designated unsuitable for mining.								
^C Permits meeting the criteria of 30 CFR 773.20(b) and requiring rescission or other action by the State.								

TABLE 14

BONDS RELEASED BY STATE (Permanent Program Permits)		
Reclamation phase	Number of release applications approved	Acres released
I	0	0
II	0	0
III	0	0

TABLE 15

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
	Sites	Dollars	Acres
Bonds forfeited as of July 1, 1991 ^A	3	\$255,380	21.5
Bonds forfeited during EY 1992	1	38,000	7.0
Forfeited bonds collected as July 1, 1991 ^A	1	\$34,180	2.0
Forfeited bonds collected during EY 1992	1	38,000	7.0
Forfeiture sites reclaimed during EY 1992	0	0 ^B	0
Forfeiture sites repermited during EY 1992	0	N/A	0
Forfeiture sites unreclaimed as of June 30, 1992	4	N/A	4
Excess reclamation costs recovered from permittee	0	0	0
Excess forfeiture proceeds returned to permittee	0	0	0
^A Includes data only for those forfeiture sites not fully reclaimed as of this date. ^B Cost of reclamation, excluding general administrative expenses.			

TABLE 16

STATUS OF STATE'S BOND POOL OR FORFEITURE RECLAMATION FUND* (For States with Alternative Bonding Systems)		
	July 1, 1991	June 30, 1992
Number of participating permits	N/A	N/A
Acreage of participating permits	N/A	N/A
Fund balance	N/A	N/A
Fund income	N/A	N/A
Expenditures	N/A	N/A
Funds restricted to use on a specific site (to be returned if permittee reclaims site)	N/A	N/A
Reclamation liabilities^A		
Number of sites	N/A	N/A
Acres	N/A	N/A
Estimated cost of reclamation	N/A	N/A
Portion of estimated reclamation cost covered by site-restricted bonds	N/A	N/A
^A Includes cost of reclaiming all sites for which the State has issued final bond forfeiture orders.		

*Utah does not have an alternative bonding system.

TABLE 17

LANDS UNSUITABLE PETITIONS	
Petitions seeking to designate lands as unsuitable for mining	
Decisions pending as of July 1, 1991	0
Petitions received during EY 1992	0
Petitions approved during EY 1992	0
Petitions rejected during EY 1992	0
Petitions approved in part/rejected in part during EY 1992	0
Decisions pending as of June 30, 1992	0
Petitions seeking to terminate previous lands unsuitable designation	
Decisions pending as of July 1, 1991	0
Petitions received during EY 1992	0
Petitions approved during EY 1992	0
Petitions rejected during EY 1992	0
Petitions approved in part/rejected in part during EY 1992	0
Decisions pending as of June 30, 1992	0

TABLE 18

UTAH STAFFING (Fulltime Equivalents at End of Evaluation Year)			
Function	EY 1990	EY 1991	EY 1992
Abandoned mine land reclamation program (total)	7.00	8.75	9.00
Regulatory program			
Permit review ^A	9.25	11.50	13.00
Inspection ^A	3.75	4.00	4.00
Other (general administration, fiscal, personnel, etc.)	5.50	6.00	6.50
Totals for regulatory program	18.50	21.50	23.50
Interagency personnel assignments	0	0	0
Totals	25.50	30.25	32.50
^A Does not include supervisors or clerical personnel			

TABLE 19

FUNDS GRANTED TO UTAH BY OSM BY EVALUATION YEAR (Millions of Dollars)												
Type of grant	Federal funds requested by Utah			Federal funds awarded			Funds deobligated			Percent of total program costs that are Federally funded		
	1990	1991	1992	1990	1991	1992	1990	1991	1992	1990	1991	1992
Administration and enforcement	1.30	1.39	1.54	1.10	1.16	0.34	0.18	0.00	0.00	84.9%	85.5%	85.5%
Abandoned mine land reclamation ^A	1.38	1.50	1.79	1.38	1.50	1.79	0.07	0.00	0.00	100%	100%	100%
Small operator assistance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100%	100%	100%
Other (AVS)	0.00	0.06	0.01	0.00	0.01	0.01	0.00	0.00	0.00	100%	100%	100%
Totals	2.68	2.95	3.34	2.48	2.67	2.14	0.25	0.00	0.00			
^A Includes administrative grants, construction grants, and cooperative agreements.												

TABLE 20

STATUS OF AMLR FUNDS AWARDED TO UTAH (Millions of Dollars)						
Year of award	Funds approved by OSM	Cumulative obligations by Utah	Cumulative outlays by Utah	Funds deobligated by Utah (cumulative)	Funds remaining available for obligation	Percent of grant period lapsed
Administrative grants						
EY 81-90	4.24	3.76	3.76	0.48	0.00	100%
EY 91	0.64	0.39	0.25	0.00	0.25	75%
EY 92	1.00	0.00	0.00	0.00	1.00	0%
Subtotals	5.88	4.15	4.01	0.48	1.25	
Construction grants, exclusive of State emergency and noncoal project funding						
EY 81-90	8.26	7.05	7.05	0.79	0.42	95%
EY 91	0.81	0.26	0.12	0.00	0.55	25%
EY 92	0.28	0.00	0.00	0.00	0.28	0%
Subtotals	9.35	7.31	7.17	0.79	1.25	
State emergency project funding						
EY 81-90	N/A					
EY 91	N/A					
EY 92	N/A					
Subtotals	N/A					
Noncoal project funding						
EY 81-90	0.95	0.80	0.80	0.15	0.00	100%
EY 91	0.05	0.00	0.00	0.00	0.05	25%
EY 92	0.51	0.00	0.00	0.00	0.51	0%
Subtotals	1.51	0.80	0.80	0.15	0.56	
Cooperative agreements						
All EY	0.58	0.53	0.53	0.05	0.00	100%
Totals	17.32	12.79	12.51	1.47	3.06	
N/A Not-applicable UA Data unavailable						

TABLE 21

AML RECLAMATION ACHIEVEMENTS DURING EVALUATION PERIOD *				
Project benefit		AMLIS ^A keyword(s)	Coal mining related	Noncoal mining related
1. Mine openings closed	(number)	MO, P, VO	43	287
2. Landslides stabilized	(acres)	DS	1	
3. Subsidence-prone areas stabilized and surface deformations repaired	(acres)	S, SP	1	
4. Hazardous impoundments and other water bodies modified or removed	(number)	HWB, DI		
5. Highwalls modified to minimize safety hazards	(linear feet)	DH		
6. Highwalls eliminated	(linear feet)	H		
7. Mining equipment, structures, and facilities removed	(sites)	HEF, EF	12	
8. Mine refuse piles and slurry ponds removed or stabilize	(acres)	DPE, GO, SL	10.6	
9. Industrial and residential trash dumps and waste disposal sites cleaned up	(acres)	IRW, DP		
10. Silt-clogged stream channels rehabilitated	(miles)	CS	0.4	
11. Polluted water supplies and swimming holes improved in quality or replaced	(number)	PWAI, PWHC	0.3	
12. Underground mine or coal seam fires controlled	(acres)	UMF		
13. Surface refuse fires extinguished	(acres)	SB	11	
14. Underground mine gas problems mitigated	(number)	GHE	4.2	
15. Mine spoils, pits, benches, and related disturbed areas regraded and/or revegetated	(acres)	CSL, BE, HR, PI, SA		
16. Mine drainage quality improved	(gal./min.)	WA		
17. Other environmental benefits	(itemize)	O		
18. Public facilities constructed or enhanced	(itemize)	P5		
19. Public land developed	(itemize)	P6		
Total acreage reclaimed by all projects			23.6	1
^A AMLIS: Abandoned Mine Lands Inventory System				

*Includes accomplishments of DOGM's volunteer program.

TABLE 22

AML RECLAMATION ACHIEVEMENTS SINCE PROGRAM APPROVAL				
Project benefit		AMLIS^A keyword(s)	Coal mining related	Noncoal mining related
1. Mine openings closed	(number)	MO, P, VO	410	643
2. Landslides stabilized	(acres)	DS	1	
3. Subsidence-prone areas stabilized and surface deformations repaired	(acres)	S, SP	1	
4. Hazardous impoundments and other water bodies modified or removed	(number)	HWB, DI	1	
5. Highwalls modified to minimize safety hazards	(linear feet)	DH	1,925	
6. Highwalls eliminated	(linear feet)	H	400	
7. Mining equipment, structures, and facilities removed	(sites)	HEF, EF	165	
8. Mine refuse piles and slurry ponds removed or stabilize	(acres)	DPE, GO, SL	94.6	
9. Industrial and residential trash dumps and waste disposal sites cleaned up	(acres)	IRW, DP	2.2	
10. Silt-clogged stream channels rehabilitated	(miles)	CS	2.4	
11. Polluted water supplies and swimming holes improved in quality or replaced	(number)	PWAI, PWHC	1.3	
12. Underground mine or coal seam fires controlled	(acres)	UMF	4	
13. Surface refuse fires extinguished	(acres)	SB	40	
14. Underground mine gas problems mitigated	(number)	GHE	26	
15. Mine spoils, pits, benches, and related disturbed areas regraded and/or revegetated	(acres)	CSL, BE, HR, PI, SA	195.2	
16. Mine drainage quality improved	(gal./min.)	WA	0	
17. Other environmental benefits	(itemize)	O	0	
18. Public facilities constructed or enhanced	(itemize)	P5	1	
19. Public land developed	(itemize)	P6	0	
Total acreage reclaimed by all projects			338	7.1
^A AMLIS: Abandoned Mine Lands Inventory System				

APPENDIX B

OSM Cyclical Review Schedule for Evaluating State Program Elements and Sub-elements (Evaluation Years 1992-1994)

Utah

CYCLICAL REVIEW SCHEDULE

Evaluation Years 1992-1994

Regulatory Program Evaluation Codes

- 0 - No evaluation planned
- 1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)
- 2 - Routine cyclical in-depth review
- 3 - Selective-focus evaluation resulting from:
 - (a) Inspection findings
 - (b) Analysis of State data and documents routinely supplied to the Field Office
 - (c) Public concern
 - (d) Action plan item or other previously identified unresolved problem
 - (e) Action plan follow-up (verification of tentative resolutions)
- 4 - National priority review

AMLRL Program Evaluation Codes

- 0 - No evaluation planned
- 1- Standard continuous oversight (routine site visits and/or review of State or Tribal data and documents routinely supplied to the Field Office)
- 2 - Routine cyclical in-depth review
- 3 - Selective-focus evaluation resulting from:
 - (a) Site visit findings
 - (b) Analysis of State or Tribal data and documents routinely supplied to the Field Office
 - (c) Public concern
 - (d) Action plan item or other previously identified unresolved problem
 - (e) Action plan follow-up (verification of tentative resolutions)
- 4 - National priority review

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
A. Permitting Actions			
1. Processing of new mining permit applications			
a. Administrative completeness	2	0	0
b. Public notice, availability for public review, consideration of comments and notice of decision	2	0	0
c. Coordination with other permitting authorities and solicitation and consideration of comments from other governmental agencies	2	0	0
d. Completeness and accuracy of data concerning ownership, compliance history, right of entry, and protected lands and structures	2	0	0
e. Adequacy of baseline data	2	0	0
f. Mining and reclamation plan	3(d)	0	0
g. Subsidence control plan	2	0	0
h. PHC/CHIA	2	0	0
i. Liability insurance	2	0	0
j. Written findings and documentation	2	0	0
k. Permit terms and conditions	2	0	0
l. AVS operation, maintenance, and use	2	4	0
2. Processing of exploration applications			
a. Application completeness	0	0	2
b. Public notice and consideration of comments	0	0	2
c. Justification for sale or commercial use	0	0	2
d. Written findings and documentation	0	0	2
3. Processing of notices of intent to explore	2	0	0
4. Processing of applications for permit revisions, transfers, assignments, and sales			
a. Determination of significance (revision applications only)	2	0	0
<div style="display: flex; justify-content: space-between; font-size: small;"> <div> <p>0 - No evaluation planned</p> <p>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</p> <p>2 - Routine cyclical in-depth review</p> </div> <div> <p>3 - Selective-focus evaluation resulting from:</p> <p>(a) Inspection findings</p> <p>(b) Analysis of State data and documents routinely supplied to the Field Office</p> <p>(c) Public concern</p> </div> <div> <p>(d) Action plan item or other previously identified unresolved problem</p> <p>(e) Action plan follow-up (verification of tentative resolutions)</p> <p>4 - National priority review</p> </div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
b. Public notice (if applicable) and consideration of comments	2	0	0
c. PHC/CHIA reevaluation (revision applications only)	2	0	0
d. Written findings and documentation	2	0	0
5. Processing of permit renewal applications			
a. Completeness	0	0	2
b. Public notice and consideration of comments	0	0	2
6. Midterm permit reviews	2	0	0
7. Periodic reviews of permits for special types of mining	0	0	2
8. Remediation of improvidently issued permits	0	2	0
B. Bonding			
1. Bond instrument tracking and security systems	0	2	0
2. Computation and adequacy of bond amounts	4	0	0
3. Verification of bond instrument validity, value and lack of restrictions	0	2	0
4. Alternative bonding system operation and solvency	N/A	N/A	N/A
5. Bond adjustments and replacements	0	2	0
6. Processing of bond release applications			
a. Public notice, notification of interested parties and consideration of comments	0	0	2
b. Evaluation of adequacy of proposed remaining bond (partial releases only)	0	0	2
c. Documentation that bond release standards have been met	0	0	2
7. Bond forfeiture			
a. Procedures	2	0	0
b. Collection and litigation efforts	2	0	0
c. Reclamation of forfeiture sites	2	0	0
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
C. Inspections			
1. Inspection frequency and procedures	2	1	1
2. Inspection reports			
a. Accuracy and completeness	2	0	0
b. Documentation of violations, site conditions and mine activity status	2	0	0
3. Maintenance of inspectable units list and inspection database	2	0	0
4. Handling of citizen complaints and requests for inspections	3(e)	0	0
D. Enforcement			
1. Identification and citation of violations	3(d)	3(d)	1
2. Notices of violations and cessation orders			
a. Timeliness of issuance and termination	0	0	2
b. Appropriateness of remedial measures and abatement periods	0	0	2
c. Documentation of reasons for modifications, terminations and vacations	0	0	2
3. Pattern of violations reviews, show cause orders and hearings	2	0	0
4. Timeliness and effectiveness of alternative enforcement actions	2	0	0
5. Responses to ten-day notices	2	1	1
E. Civil Penalties			
1. Penalty assessment procedures	3(d)	2	0
2. Documentation of rationale for penalty assessment amounts, waivers and adjustments	0	2	0
3. Maintenance of enforcement value			
a. Blocking of new permits if penalties unpaid	0	2	0
b. Collection efforts	0	2	0
<div style="display: flex; justify-content: space-between;"> <div> <p>0 - No evaluation planned</p> <p>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</p> <p>2 - Routine cyclical in-depth review</p> </div> <div> <p>3 - Selective-focus evaluation resulting from:</p> <p>(a) Inspection findings</p> <p>(b) Analysis of State data and documents routinely supplied to the Field Office</p> <p>(c) Public concern</p> </div> <div> <p>(d) Action plan item or other previously identified unresolved problem</p> <p>(e) Action plan follow-up (verification of tentative resolutions)</p> <p>4 - National priority review</p> </div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
F. Administrative and Judicial Review			
1. Review procedures			
a. Notification of rights	3(d)	2	0
b. Escrowing of penalties	3(d)	2	0
c. Timeliness of hearings and decisions	3(d)	2	0
d. Documentation of decision rationale	3(d)	2	0
2. Appeal or remediation of adverse decisions	0	2	0
3. Cost recovery procedures and decisions	0	2	0
G. Designation of Lands Unsuitable for Mining			
1. Processing of petitions	2	0	0
2. Maintenance of database and inventory system	2	0	0
H. Blaster Certification			
1. Training	0	2	0
2. Certification	0	2	0
3. Suspension and revocation	0	2	0
I. Small Operator Assistance			
1. Application review and verification of eligibility	0	0	2
2. Contract monitoring	0	0	2
3. Reimbursement monitoring and procedures	0	0	2
4. Laboratory certification	0	0	2
J. Maintenance of Approved Program			
1. Notification to OSM of program changes and significant conditions and events affecting implementation	2	1	1
2. Responses to Part 732 notifications and codified conditions and amendment requirements	2	1	1
3. Promulgation and implementation of approved program amendments	2	1	1
<div style="display: flex; justify-content: space-between; font-size: small;"> <div> <p>0 - No evaluation planned</p> <p>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</p> <p>2 - Routine cyclical in-depth review</p> </div> <div> <p>3 - Selective-focus evaluation resulting from:</p> <p>(a) Inspection findings</p> <p>(b) Analysis of State data and documents routinely supplied to the Field Office</p> <p>(c) Public concern</p> </div> <div> <p>(d) Action plan item or other previously identified unresolved problem</p> <p>(e) Action plan follow-up (verification of tentative resolutions)</p> <p>4 - National priority review</p> </div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
K. Program administration			
1. Grants management			
a. Drawdowns and disbursements	2	2	0
b. Accounting procedures	2	2	0
c. Timeliness of applications and reports	2	0	0
d. Maintenance of internal controls	2	0	2
e. Audits and implementation of audit recommendations	2	2	0
f. Procurement and management of property and services	2	0	0
2. Data management	2	0	0
3. Coordination with other agencies	0	2	0
4. Identification and resolution of conflicts of interest	0	0	2
L. Technical Subject Evaluation			
1.Processing of hydrologic Information	3(b)	0	0
2.Subsidence control	0	3(b)	0
<div style="display: flex; justify-content: space-between; font-size: small;"> <div> <p>0 - No evaluation planned</p> <p>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</p> <p>2 - Routine cyclical in-depth review</p> </div> <div> <p>3 - Selective-focus evaluation resulting from:</p> <p>(a) Inspection findings</p> <p>(b) Analysis of State data and documents routinely supplied to the Field Office</p> <p>(c) Public concern</p> </div> <div> <p>(d) Action plan item or other previously identified unresolved problem</p> <p>(e) Action plan follow-up (verification of tentative resolutions)</p> <p>4 - National priority review</p> </div> </div>			

CYCLICAL REVIEW SCHEDULE

ABANDONED MINE LAND RECLAMATION PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
A. Project Planning			
1. Inventory maintenance	2	0	0
2. Project selection	2	0	0
3. Interagency coordination	0	2	0
4. Project design	0	2	0
5. Rights of entry	2	0	0
6. Lien eligibility determinations	2	0	0
B. Project Construction			
1. Adequacy of contract terms and specifications	0	2	0
2. Construction management	2	0	2
3. Post-construction monitoring and evaluation	2	0	2
4. Project maintenance	2	0	0
5. Lien recording and maintenance	2	0	0
6. Emergency investigations and abatement efforts	N/A	*	*
C. Program Administration			
1. Grants management			
a. Drawdowns and disbursements	0	2	0
b. Accounting procedures	0	2	0
c. Timeliness of applications and reports	2	0	0
d. Maintenance of internal controls	0	0	2
e. Audits and implementation of audit recommendations	0	2	0
f. Procurement and management of property and services	0	0	2
2. Data management	0	2	0
3. Coordination with other agencies	0	0	0
4. Management and disposal of abandoned mine lands	0	2	0
5. Subsidence insurance program management	N/A	N/A	N/A
<div style="display: flex; justify-content: space-between;"> <div> <p>0 - No evaluation planned</p> <p>1 - Standard continuous oversight (routine site visits and/or review of State or Tribal data and documents routinely supplied to the Field Office)</p> <p>2 - Routine cyclical in-depth review</p> </div> <div> <p>3 - Selective-focus evaluation resulting from:</p> <p>(a) Site visit findings</p> <p>(b) Analysis of State or Tribal data and documents routinely supplied to the Field Office</p> <p>(c) Public concern</p> </div> <div> <p>(d) Action plan item or other previously identified unresolved problem</p> <p>(e) Action plan follow-up (verification of tentative resolutions)</p> <p>4 - National priority review</p> </div> </div>			

CYCLICAL REVIEW SCHEDULE

ABANDONED MINE LAND RECLAMATION PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
D. Maintenance of Approved Reclamation Plan			
1. Notification to OSM of significant conditions and events affecting plan implementation	0	2	2
2. Responses to OSM notifications that plan amendments are needed	0	2	2
3. Promulgation and implementation of approved plan amendments	0	2	2
<p>*Evaluation of the Emergency Investigations and Abatement Efforts Sub-element will depend on Utah's assumption of an emergency abatement program.</p>			
<div> <div> 0 - No evaluation planned 1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office) 2 - Routine cyclical in-depth review </div> <div> 3 - Selective-focus evaluation resulting from: (a) Inspection findings (b) Analysis of State data and documents routinely supplied to the Field Office (c) Public concern </div> <div> (d) Action plan item or other previously identified unresolved problem (e) Action plan follow-up (verification of tentative resolutions) 4 - National priority review </div> </div>			

APPENDIX C

State Comments on Report



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangertter

Governor

Dee C. Hansen

Executive Director

Dianne R. Nielson, Ph.D.

Division Director

355 West North Temple

3 Triad Center, Suite 350

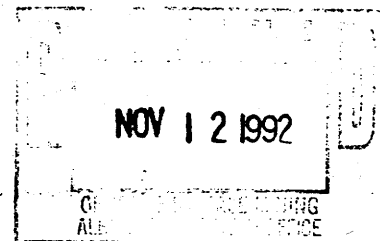
Salt Lake City, Utah 84180-1203

801-538-5340

SFP-UT-13

November 6, 1992

Robert H. Hagen, Director
Office of Surface Mining
Reclamation and Enforcement
Albuquerque Field Office
505 Marquette NW, Suite 1200
Albuquerque, New Mexico 87102



Dear Mr. Hagen:

Re: Draft EY 92 Annual Evaluation Report, Utah

I have reviewed the above referenced oversight report transmitted to the Division on October 19, 1992, and am providing the following comments.

Page 5, Section VI (last paragraph)

"the significant issues relating to DOGM's program that continue to need improvement include: (1) approval of permit renewals; (2) highwall elimination; and (3) citation of violations..."

Comment: I do not agree that this sentence is a correct summary of Utah's program for the EY 92.

1. With respect to permit renewals, the statement contradicts the findings made in the last paragraph of page 9 of this report. Page 9 states that technically the Division is doing a good job and that OSM had overstated the potential for environmental impact resulting from untimely permit renewals and concludes that the timeliness issue is unresolved. I am not aware that an evaluation of timeliness of permit renewals was conducted in EY 92, consequently the current appraisal of timeliness does not appear to have a basis in fact.

2. In the case of highwalls, please remember that there have been multiple exchanges of correspondence oriented towards a highwall program amendment. I believe we met the established

Page 2
Robert H. Hagen
November 6, 1992

NOV 12 1992

timeframes for responses, and in one case proposed language identical to that recommended by OSM and still failed to resolve the issue. Utah has done everything possible to resolve the concerns in a timely manner.

3. Although I agree that we could debate the issue of citation of violations without resolution, the sentence quoted in the report does not do justice to the strides that have been made in this EY, as noted in the first paragraph on page 6. These gains include a considerable reduction in the number of TDN's issued in the past year, and an improvement in the number of LSCI issues (as noted later in the report). The statement, "however this 6 year old issue cannot be considered resolved" (page 6, paragraph 1) leaves the reader with an impression that there is an unresolved agenda, when in fact we really have had little discussion on the subject, either in oversight meetings or in other forums. The sentence quoted above could be rewritten to support the improved performance of Utah, and the improved working relationship between our two agencies.

Page 6, Sec. VI (paragraph 8)

The reclamation of the 1988 bond forfeiture site has been completed at this time. This paragraph could be rewritten to state that by the time this report was written, the reclamation was completed. It is also worth noting that while surface restoration was delayed, the work required to close portal and protect health and safety was accomplished immediately upon bond forfeiture.

Page 9, Permitting Actions (last paragraph)

The concluding sentence "The issue of timeliness (of permit renewals) remains unresolved, but the potential of environmental significance is less than originally believed because of the actual ground situation has changed or the federal Land Management Agency has taken steps to address problems" is confusing.

Comment: This sentence appears to be a holdover from an earlier EY, and I do not see a reference to an appraisal of timeliness of permit renewals completed during the EY 92, although eight are noted in Table 13. I would appreciate deletion of this sentence, or an opportunity to review revised language before finalization of this portion of the report.

NOV 12 1992

Page 3
Robert H. Hagen
November 6, 1992

Page 11, Bonding (last paragraph)

Please consider adding the same language I proposed for page 6, Sec VI, paragraph 8, to this paragraph.

Page 12, Inspections (Summary findings paragraph, 2nd sentence)

"DOGM met the frequency for all active and inactive sites except for three sites where it missed two complete inspections and two partial inspections."

Comment: Please insert into the above sentence after inactive sites as follows: "a performance of 96 percent and 100 percent respectively." (Note: these percentages are from Table 3.)

Page 13, Enforcement (Summary Findings paragraph)

1. Third sentence: "During EY 92, OSM observed 16 violations that it believed existed during the LSCI."

Comment: Please insert language to the effect that of the subject violations, OSM's appraisal suggested that 12 had a minor degree of impact, and four had a moderate degree of impact.

2. Last sentence: "The EY 92 data indicated that improvement is still needed in identifying and citing violations when unaccompanied by OSM."

Comment: This sentence is not a good representation of the Utah I&E program at large because no credit is given to violations issued by DOGM when OSM is not doing RSI's. The second paragraph on page 13, credits DOGM for citing 13/14 non-LSCI violations (the 14th having been resolved during the inspection for a 100 percent rate of concurrence on non-LSCI issues between the two agencies while conducting joint inspections). Furthermore, based on table five, DOGM issued a total of 85 violations in 71 enforcement actions. Presumably, 72 of these violations were issued on non-joint inspections, and the remaining violations are the 13 referenced in the preceding sentence. I do not see the basis for stating that Utah has a problem with identifying and citing violations when 72/85 (85 percent) of Utah NOV's are issued on state inspections. I believe language describing the 100 percent concurrence rate on non LSCI issues for joint inspections and the 85 percent non-joint inspection violation issuance must to be added to the EY 92 report.

NOV 12 1992

Page 13, Enforcement (last paragraph, last two sentences)

"OSM found that DOGM continued to terminate some enforcement actions based on either: (1) plan submittal or (2) based on plan approval but not on plan implementation to correct on the ground conditions. OSM found six cases of this occurrence out of 60 enforcement actions that it reviewed..."

Comment: This part of the report needs to be rewritten to reflect that in 90 percent of the cases DOGM did terminate in the manner OSM feels is appropriate. Secondly, there may be instances in the six cases with which OSM took exception to where plan approval is an acceptable termination means. I agree that termination upon submission of plans with out approval is not an appropriate action, but based on your statistics, Utah's actions in this respect are appropriate at least 90 percent of the time, and of the ten percent that we may disagree on some consideration should be given to whether termination on plan approval is an acceptable mechanism. While not wanting to dictate what OSM does in EY 93 oversight, a greater than 90 percent success rate is hardly an issue worth describing for future action.

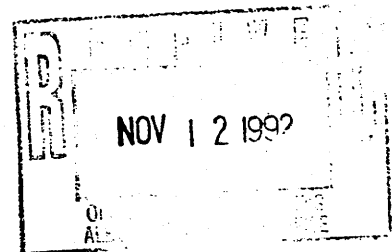
Page 14, alternative enforcement (paragraph 3)

"OSM also conducted an in-depth review of the sub-element "Timeliness and effectiveness of Alternative Enforcement Actions". The approved State program requires DOGM pursue alternative enforcement action within 30 days through one of four alternatives when a Cessation Order (CO) issued for failure to abate a violation remains unabated after 30 days. Since the last review of this sub-element, there have been two instances requiring alternative enforcement, both relating to the same permit. In both, DOGM did not initiate alternative enforcement within the 30 days required, nor had DOGM initiated such action at the end of EY 1992- 11 months after such action should have been initiated"

Comment: Since the sub-element referenced above deals with timeliness and effectiveness of the alternative enforcement action, and since OSM's conclusions only deal with timeliness I suggest the portion of the report quoted above fails to evaluate the sub-element as required. A more acceptable description of Utah's performance for this sub-element (from my perspective) would read as follows:

OSM discussed the applicability of the alternative enforcement action elements of DOGM's program to a specific permittee with DOGM. DOGM's position was that prior to initiation of such action

Page 5
Robert H. Hagen
November 6, 1992



a Board briefing might be required. At the conclusion of EY 92 DOGM indicated that such action was being initiated. Accordingly, OSM will defer comment on this sub-element until a full appraisal (both the timeliness and effectiveness) of the action can be made.

Page 15, Civil Penalties, Discussion of Timeliness of Assessment

OSM correctly identified a discrepancy in DOGM's program in the EY 90 with respect to timeliness of assessment. The EY 92 issue appears to be more directed to whose records are correct with respect to the 30 day timeframe within which the assessment must be performed. Utah feels the magnitude of the problem is considerably less than explained. Prior to finalization of this report, I would recommend a review of DOGM's raw data with the intent of agreeing on the correct timeframe.

Page 15, Administrative and Judicial Review (paragraph 2)

"DOGM has not followed through with the statutory and program changes that it previously proposed making."

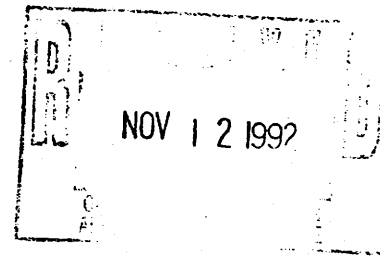
Comment: This sentence fails to acknowledge the action DOGM has taken on these issues. This sentence should be rewritten to state that DOGM is following the approved Utah Administrative Procedures in making the required statutory and regulatory changes.

Page 20 Maintenance of Approved Program (paragraph 3)

"DOGM occasionally published and distributed copies of revised versions of its rules merging approved amendments into the existing rules."

Comment: This sentence leaves the reader with the impression that DOGM's rule changes were not properly noticed and that the public is hindered from acquisition of changes to the Utah Coal Regulatory Program. I would prefer language as follows: Revised final versions of Utah rules are published in accordance with established Utah administrative procedures. When major rule changes are approved, DOGM publishes updated versions of its rules.

Page 6
Robert H. Hagen
November 6, 1992



Page 23 AMLR, Program Project Planning

In the Utah AMR lien rules, all references but one place the authority for lien decisions with the Division, with one reference to the Board having some function. This one reference to the Board is clearly out of place and not in keeping with Board functions. A similar anomaly exists in the Utah Code.

The Division is currently working on updating the Utah Code to change the references from the Board having authority in the placement of liens to the Division. These changes will convert all references for authority in regards to lien decisions from "Board" to "Division." The rule cannot be revised until the statute is revised. This will be before the Legislature in 1993.

The Division has assumed the responsibility for lien administration on its AML projects since 1983. The Board is neither equipped nor inclined to assume such an administrative duty. Thus, the Division will continue to function in this manner, while rule and law changes are being made, with both the Board's knowledge and its understanding of this discrepancy in the rules.

Page A-4, State Inspection Activity (Table 3)

"*Information not available from the state"

Comment: If needed, we can provide a date for exploration inspections. Please contact Joe Helfrich before finalization of this portion of the report.

Page A-9, OSM Random Sample Inspection Compliance Finding (Table 8)

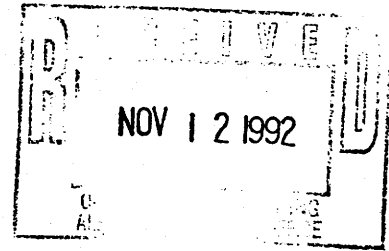
Comment: Given the lengthy "disclaimer" statement contained under the note, I question the value of putting this information in a evaluation report on the Utah program that will be given national press.

Page A-14, State Permitting Actions (Table 13)

Comment: Add EY 92 to title.

Comment: Prior to finalization of this table, I would appreciate an opportunity for Joe Helfrich to review and discuss the numbers of permitting actions and the acreage associated.

Page 7
Robert H. Hagen
November 6, 1992



Page A-15, Bonds released by State (Table 14)

Comment: Add EY 92 to title.

Best regards,

Dianne R. Nielson
Director

kak
cc: L. Braxton
ovst92dr

Disposition of Utah's Comments

Page 5, Section VI (last paragraph)

1. Permit Renewals

The Office of Surface Mining Reclamation and Enforcement (OSM) monitored permit renewal dates and the Division of Oil, Gas and Mining (DOGM) Division Orders as a follow-up to the EY 1991 report. DOGM continued to repermit mines with significant deficiencies in the technical information presented in the permit application package PAP by issuing the permit in concert with a Division Order that requires the deficiencies be addressed at a later time, as noted in the report on page 10. OSM believes that this methodology needs to be altered; DOGM should ensure that PAP's are technically accurate prior to renewing the permit.

2. Highwalls

No additional response is necessary. As stated in the AER, the program amendment is currently under review.

3. Citation of Violations

DOGM's performance in citing violations is not based on the number of Ten-Day Notices (TDN) issued during the year; it is based on the number of violations observed during oversight inspections that were believed to have existed during the last State complete inspection. The reduction in TDN's may have been a matter of OSM doing less inspections and the state taking enforcement at the time of the inspection rather than an indicator of overall improvement in DOGM's regulatory posture.

DOGM received periodic reports during the evaluation period relative to citing violations and was offered the opportunity to review the draft element-specific report relative to this subject. DOGM stated in its comments dated June 16, 1992, that it had no comment concerning this topic. The AER reflects the joint findings in the element-specific report and it is an accurate representation of the status of this issue; therefore, the AER was not changed.

Page 6, Section VI (paragraph 8)

At the end of the EY, the 1988 bond forfeiture site was not reclaimed. The AER was revised to show that it was reclaimed after the end of the evaluation year. At this time, OSM has not reviewed the documentation relating to site reclamation. After completing its obligatory reviews, OSM will report the reclamation of this site as an accomplishment in the 1993 AER.

Page 9, Permitting Actions (last paragraph)

DOGM's comment letter is incorrect when it infers that the findings by OSM on page 9 of the evaluation report refers to permit renewals. This paragraph, as noted in the first sentence, is a discussion of the processing of hydrologic information necessary to make a determination of no impact to the hydrologic regime at three mines. OSM revisited the issue a year after information submittal by the permittees and DOGM had not brought the concerns to closure. As stated in the report, the fear of negative impact was significantly lessened due to outside influences - BLM intervened in the situation at one underground mine and at another, the previously unexpected flow of large quantities of water into the mine stopped.

Page 11, Bonding (last paragraph)

See the comment for page 6, paragraph 8.

Page 12, Inspections (Summary Findings paragraph, second sentence)

The AER was changed as requested to reflect the percentages of sites on which the required inspection frequency was met.

Page 13, Enforcement (Summary Findings paragraph)

1. Third Sentence

In response to this comment, OSM added a paragraph (now paragraph 4) that describes the seriousness of the LSCI violations.

2. Last Sentence

OSM's evaluation of performance in citing violations is based on data collected pursuant to OSM Directive. OSM believes it is an accurate reflection of the status of this issue. Therefore, no changes were made to the report in response to DOGM's comment. It should be noted that DOGM presents the same analysis that it has presented for the last several years and it contains the same flaw as in previous years - it is not a valid comparison.

Page 13, Enforcement (last paragraph, last two sentences)

OSM revised the report to indicate that DOGM terminated 90 percent of its enforcement actions appropriately.

OSM is aware that there are certain instances where termination of an enforcement action upon submission of a revision is appropriate. OSM gave this due consideration at the time this review was conducted. The 6 cases of inappropriate termination referenced in the AER involve instances where plan approval and on-the-ground remediation were necessary to fully abate the violation. Therefore, the AER was not revised.

OSM Directive REG-8 requires follow-up of identified deficiencies if they are unresolved at the end of the evaluation period. Since this problem is unresolved, OSM must follow-up on it, although it is not anticipated that an in-depth review will be needed.

Page 14, Alternative Enforcement (paragraph 3)

The AER accurately described DOGM's performance in regard to "Timeliness and Effectiveness of Alternative Enforcement Actions" (emphasis added). The fact that DOGM has not initiated alternative enforcement is indicative that such action is neither timely nor effective. Also, failure to perform is no justification for deferring an evaluation. The AER was not revised.

Page 15, Civil Penalties, Discussion of Timeliness of Assessment

The EY 1992 issue is not an issue of whose records are correct; it is an issue, as accurately stated in the AER, of late proposed assessments. A cursory comparison of the Albuquerque Field Office's (AFO) and DOGM's records at the end of the evaluation period revealed only minor differences in data, with both sets of data indicating similar numbers for late assessments. DOGM indicated that it planned to closely review its database, making changes where necessary, and then provide to AFO a printout of the data for re-review of this program function. AFO has not received this data to date. AFO will review and consider such data when it is provided.

Page 15, Administrative and Judicial Review (paragraph 2)

This is a carryover issue from EY 1990. The first paragraph of this Summary Finding and the second sentence of the second paragraph acknowledge the actions that DOGM has taken on these issues, stating that DOGM has corrected the majority of the problems. OSM is unaware of any Utah procedures that would require such lengthy time frames for making regulatory and statutory changes.

Page 20, Maintenance of Approved Program (paragraph 3)

AFO changed the AER to provide a better description of the problem. AFO's review indicates that the general public was somewhat hindered by the way DOGM

published and distributed its changes to the approved program. This was especially true during when DOGM had a large number of amendments approved and re-codified its program. AFO does believe this confusion will lessen as the number of amendments becomes smaller.

Page 23, AMLR, Program Project Planning

The AER has been revised to reflect DOGM comments.

Page A-4, State Inspection Activity (Table 3)

The table was revised to reflect current data.

Page A-9, OSM Random Sample Inspection Compliance Finding (Table 8)

The AER is not being revised in response to this comment. The Table note is part of OSM's standardized format as specified in OSM Directive REG-8.

Page A-14, State Permitting Actions (Table 13)

DOGM is currently reviewing the data contained in this table. AFO will revise the table, if necessary, prior to making 25 copies of the report.

Page A-15, Bonds Released by State (Table 14)

This change was not made because the table is captioned in accordance with the national format.



United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement

Suite 1200

505 Marquette Avenue N.W.

Albuquerque, New Mexico 87102

October 19, 1992

*orig prep
Wm. J. P. O'Connell*

TAKE
PRIDE IN
AMERICA

IN REPLY REFER TO:

*cc L. P. Nielson
J. Helfrich
H. A. Wright
D. R. Nielson*

RECEIVED

OCT 22 1992

DIVISION OF
OIL GAS & MINING

Dr. Dianne R. Nielson, Director
Division of Oil, Gas and Mining
Department of Natural Resources
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

Dear Dr. Nielson:

Enclosed is the draft Annual Evaluation Report for 1992. Please review the draft and submit your comments within 15 days.

If you have any questions, please call me at (505) 766-1486.

Sincerely,

Thur R. Hagen

ACTING FOR

Robert H. Hagen, Director
Albuquerque Field Office

Enclosure



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Report

for the

Regulatory and Abandoned Mine Land Reclamation Programs

Administered by the State

of

Utah

for

Evaluation Year 1992

(July 1, 1991 through June 30, 1992)

October 1992

Utah Draft October 19, 1992

Table of Contents

I.	Introduction	1
II.	List of Acronyms	1
III.	Executive Summary	2
IV.	Overview of the Utah Coal Mining Industry	3
V.	Success in Achieving the Purposes of SMCRA	4
VI.	Status of Issues from Previous Annual Evaluation Reports	5
VII.	Actions Affecting Program Implementation	6
VIII.	Summary Findings	8
	A. Regulatory Program	8
	1: Permitting Actions	9
	2: Bonding	11
	3: Inspections	12
	4: Enforcement	13
	5: Civil Penalties	15
	6: Administrative and Judicial Review	16
	7: Designation of Lands Unsuitable for Mining	17
	8: Blaster Certification	18
	9: Small Operator Assistance	19
	10: Maintenance of Approved Program	20
	11: Program Administration	21
	B. AMLR Program	22
	1: Project Planning	23
	2: Project Construction	25
	3: Program Administration	26
	4: Maintenance of Approved Reclamation Plan	27
Appendix A: Tabular Summaries of Data Pertaining to Mining, Reclamation and Program Administration		
	Table 1 -- Coal Production	A-1
	Table 2 -- Inspectable Units	A-2
	Table 3 -- State Inspection Activity	A-3
	Table 4 -- Trends in Inspectable Units and State Inspections	A-4
	Table 5 -- State and OSM Enforcement Activity	A-5
	Table 6 -- State and OSM Enforcement Activity	A-6

Table 6 -- OSM Inspections of Sites where the State is the Regulatory Authority	A-7
Table 7 -- OSM Inspections of Sites where the State is <i>NOT</i> the Regulatory Authority	A-8
Table 8 -- OSM Random Sample Inspection Compliance Findings	A-9
Table 9 -- Distribution of Violations by Performance Standard	A-10
Table 10 -- Seriousness of Violations Present at Time of Last State Complete Inspection	A-11
Table 11 -- Citizen Complaints	A-12
Table 12 -- Permit Applications Received by State	A-13
Table 13 -- State Permitting Actions	A-14
Table 14 -- Bonds Released by State	A-15
Table 15 -- State Bond Forfeiture Activity	A-16
Table 16 -- Status of State's Bond Pool or Forfeiture Reclamation Fund	A-17
Table 17 -- Lands Unsuitable Petitions	A-18
Table 18 -- Staffing	A-19
Table 19 -- Funds Granted to Utah by OSM by Evaluation Year	A-20
Table 20 -- Status of AMLR Funds Awarded to Utah	A-21
Table 21 -- AML Reclamation Achievements <i>During</i> Evaluation Period	A-22
Table 22 -- AML Reclamation Achievements <i>Since</i> Program Approval	A-23

APPENDIX B:	OSM Cyclical Review Schedule for Evaluating State Program Elements and Sub-elements (Evaluation Years 1992-1994)	B-1
-------------	--	-----

APPENDIX C:	State Comments on Report	C-1
-------------	------------------------------------	-----

I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior to oversee the regulation of coal exploration and surface coal mining and reclamation operations and the reclamation of lands adversely affected by past mining practices. SMCRA provides that, if certain conditions are met, a State may assume primary authority for the regulation of surface coal mining and reclamation operations and the reclamation of abandoned mine lands within its borders. Once the State has obtained such approval, OSM has the responsibility to make the investigations, evaluations, and inspections necessary to determine whether the State programs are being administered and enforced in accordance with the approved program provisions.

Since it is neither possible nor necessary to fully evaluate each program element and subelement every year, OSM's Albuquerque Field Office has developed a schedule (Appendix B) specifying when each element and subelement will be reviewed during a 3-year evaluation cycle. This schedule will be revised as necessary to respond to changing conditions within Utah and concerns identified by the public or OSM oversight activities. Comments regarding the oversight process, recommendations for additional review topics, and suggestions for improvement of future reports are encouraged and should be submitted to the Director of the Albuquerque Field Office. Because of the nature of the 3-year review cycle, some findings concern State performance prior to July 1, 1991. In these cases, the greatest emphasis is accorded to the most recent State actions reviewed.

Set forth below are the summary findings of the Director of OSM's Albuquerque Field Office regarding the performance of the Utah Division of Oil, Gas and Mining, the State Regulatory Authority, for the period July 1, 1991, through June 30, 1992. Detailed background information and comprehensive element-specific reports are available at the Albuquerque Field Office.

II. List of Acronyms

AFO	Albuquerque Field Office
AML	Abandoned Mine Land(s)
AMLIS	Abandoned Mine Lands Inventory System
AMLR	Abandoned Mine Land Reclamation
AMR	Abandoned Mine Reclamation
AVS	Applicant Violator System
CO	Cessation Order
DOGM	Division of Oil, Gas and Mining
EY	Evaluation Year
LSCI	Last State Complete Inspection

NOV	Notice of Violation
OSM	Office of Surface Mining Reclamation and Enforcement
PAD	Problem Area Descriptions
PAP	Permit Application Package
POV	Pattern of Violations
RSI	Random Sample Inspection
SMCRA	Surface Mining Control and Reclamation Act of 1977
TDN	Ten-Day Notice

III. Executive Summary

DOGM's accomplishments for EY 1992 included resolving issues relating to permit transfers and maintenance of the AVS. DOGM also resolved problems relating to filing inspection reports for bond forfeiture sites, maintaining complete citizen complaint files, tracking complaint activity, and responding to complainants within programmatic timeframes. As noted in the Summary Findings, DOGM's performance was satisfactory in determining administrative completeness of new permit applications and interacting with other government agencies during the review.

DOGM and AFO have been coordinating to establish a system for electronic transfer of inspection and enforcement data between offices. When fully functional, this data transfer system will greatly enhance the quality and timeliness of data exchange between offices. DOGM has been fully cooperative in this effort and is committed to ensuring its success.

Several issues that have been discussed in previous EY's remain unresolved at the end of EY 1992. These unresolved issues are discussed in Section VI. OSM and DOGM continue to discuss these issues. A significant issue for which an agreement was reached near the end of EY 1992 and the beginning of EY 1993 was the issue of permitting haulroads. OSM and DOGM addressed this issue through a Settlement Agreement. OSM vacated the Federal NOV's issued to three mines and DOGM dropped its lawsuit against OSM regarding disapproval of DOGM's proposed haulroad rules. At this time, OSM and DOGM are fulfilling the remaining Settlement Agreement conditions.

OSM awarded DOGM over \$16.7 million to run its AMR Program since the State Reclamation Plan was approved effective June 3, 1983. Of that amount, more than \$10.8 million was awarded to reclaim 34 coal and 8 noncoal projects and to maintain completed projects. Almost \$5.9 million has been awarded to date for costs of administering the program.

DOGM started five reclamation projects during the 1992 evaluation period. Accomplishments included completion of 5 coal projects and 1 noncoal project and substantial completion of two additional coal projects. About 28 acres were reclaimed. Accomplishments also included project maintenance, distribution of about 40,000 workbooks on AML hazards to fourth grade school children, assisting the National Park Service with project planning for two projects, and continued project planning and engineering.

DOGM's volunteers and other State and local entities and landowners assisted with hazard abatement and increasing public awareness. Since the volunteer effort started about 4 years ago, hazards associated with 61 portals and 25 vertical shafts have been abated in addition to those reclaimed with funding provided by the Abandoned Mine Reclamation Fund. Of those, 22 portals and 8 vertical shafts were closed during the period summarized by this report. These efforts, combined with the cooperation of the people of Utah, continue to be instrumental in keeping the number of reported abandoned mine related hazards relatively low.

IV. Overview of the Utah Coal Mining Industry

Coal is found beneath approximately 18 percent of the State, but only 4 percent is considered minable at this time. The demonstrated coal reserve base is about 6.4 billion tons, 1.3 percent of the National reserve base. Most of Utah's coal resources are held by the Federal Government and Indian Tribes.

The coal fields are divided into the Northern, Central, Eastern, and Southwestern Utah coal regions. The most productive region is the Central Utah Coal Region which includes the Book Cliffs, Wasatch Plateau, and Emery Coal Fields. There are vast, substantially undeveloped coal fields in the Southwestern Utah coal region. Development of these fields will probably be difficult because of environmental concerns resulting from the proximity to National Parks and other recreation areas.

Most of the coal is bituminous and is of Cretaceous Age. The BTU value is high compared to other western States. Sulfur content ranges from medium to low in the more important coal fields.

Most current operations mine seams that exceed 8 feet in thickness. All coal production is from underground mining. There are 32 inspectable units, 27 of which are currently operating. There are 120,000 acres of land currently under permit for mining with approximately 2,400 acres disturbed. Coal production has been steadily increasing since the early 1970's, producing almost 22 million tons in 1991. Utah's coal industry employs approximately 2,500 miners.

The climate of the Central Utah Coal Region is characterized by hot, dry summers and cold, relatively moist winters. Normal precipitation varies from 6 inches in the lower valleys to more than 40 inches on some high plateaus. The growing season ranges from 5 months in some valleys to only 2-1/2 months in mountainous regions. These extreme climatic conditions make reclamation difficult.

Hazards associated with mines abandoned prior to SMCRA are varied, numerous, and widespread. Coal mine hazards most commonly include open vertical shafts, open portals often accompanied by methane emission, deteriorated structures, burning coal piles, unstable mine waste piles, underground coal mine fires, subsidence, and erosion of waste material into streams. Most abandoned coal mines are found in the Central Utah Coal Region where much of the State's coal mining took place, though they can be found in the southwestern, southcentral, and northeastern areas of Utah as well. DOGM has 101 coal PAD's in its inventory, many of which already have been reclaimed. Noncoal abandoned mine hazards number in the thousands and are found throughout the State. Noncoal abandoned mine hazards most commonly include open vertical shafts, open portals, deteriorated structures, unstable waste piles, and subsidence.

A number of incidents involving abandoned mines occurred during this period. Two incidents involved injuries. One person was injured by falling into a vertical noncoal shaft while snowboarding. Another person was injured by falling into a winze located inside a noncoal mine after vandalizing a grated mine closure constructed by DOGM. One of the rescuers also was injured in that incident while removing the grated closure. DOGM responded to discovery of other high-priority hazards, two of which included: A 1000-foot deep drill hole that opened up discharging water and methane in the front yard of a residence; and a vertical shaft previously closed in a noncoal AMR project near a residential area that opened when a larger area around the closure collapsed. These incidents were addressed as a coal project and as noncoal maintenance, respectively, through DOGM's normal grants process. Fortunately, no deaths related to abandoned mine lands were reported during the 1992 evaluation year.

Twenty-three reported incidents involving abandoned mines have occurred since May 1982. Thirteen incidents involved injuries to people, three of which resulted in fatalities. Twenty involved abandoned noncoal mines.

V. Success in Achieving the Purposes of SMCRA

As previously stated, there are 120,000 acres permitted in Utah for mining operations, all of which are underground mining operations. Of this permitted area, 2,443 acres have been disturbed. Since approval of the State program, 156 acres have been reclaimed on 7 sites and are awaiting various stages of bond release. So far, there

have been no final bond releases. The surface disturbance associated with underground mines is very small compared to the number of acres permitted and it generally changes very little from the time mining begins until final reclamation operations are initiated. This makes it very difficult to quantify reclamation success through yearly comparisons of acres disturbed, regraded, and revegetated.

Reclamation of roads and highwall elimination are major concerns as they relate to achieving the purposes of SMCRA. As discussed elsewhere in this Report, Utah is currently amending its program to ensure that it is "no less stringent than" SMCRA in regard to highwall reclamation requirements and to be "no less effective than" the Federal regulations in regard to permitting haulroads.

Timeliness of reclamation at bond forfeiture sites remains a concern as it relates to overall reclamation success. Due to the inherent difficulties in collecting forfeited bonds and converting collateral property bonds to cash, reclamation of forfeiture sites is often an unavoidably lengthy process. DOGM's actions toward reclamation of bond forfeiture sites has been diligent with the exception of one site where the bond was forfeited in October 1986, collected in August 1988, and the site has not yet been reclaimed. Although DOGM has been diligent in its actions at other sites, due to difficulties in collecting bonds, reclamation has not been achieved at 3 additional sites. OSM cited this as a concern in the 1991 Annual Evaluation Report as it relates to overall reclamation success, and it remains a concern at this time.

Reclamation of abandoned sites completed by DOGM and as a result of volunteer assistance during this period eliminated safety and environmental hazards posed by 330 mine openings, 12 deteriorated structures, 11 methane problems associated with mine openings, and over 10 acres of mine refuse piles. DOGM's reclamation restored about 28 acres of mined land to a condition that will be more compatible with surrounding areas and will be of greater use to the people and wildlife of Utah than if left unreclaimed. In that context, reclamation achieved the purposes of SMCRA.

VI. Status of Issues from Previous Annual Evaluation Reports

During previous EY's, OSM identified significant issues that impact the overall effectiveness of Utah's program. These issues include permitting as well as enforcement problems. During EY 1992, OSM and DOGM agreed to certain actions that were needed to resolve these issues. As a result of these efforts, issues relating to procedures for processing permit transfers and maintenance of the Applicant Violator System were resolved. Although some progress has been made toward resolution of the remaining issues, these program issues need to be completely resolved both programmatically and through on-the-ground efforts.

The significant issues relating to DOGM's program that continue to need improvement include: (1) approval of permit renewals; (2) highwall elimination; and (3) citation of violations. The EY 1991 problem with renewal of permits that had extensive technical deficiencies was not resolved. OSM and DOGM agreed to a

Settlement Agreement regarding the outstanding litigation involving roads. OSM is currently reviewing a proposed State program amendment regarding highwall elimination requirements, that, when found approvable by OSM, should eliminate the issue of inappropriately retained highwalls. During EY 1992, DOGM appears to have improved, to some extent, in regard to citing violations; however, this 6-year old issue cannot be considered resolved.

The status of remaining issues identified in previous Annual Evaluation Reports is as follows:

Incomplete transmittal of permitting information to OSM was resolved.

Timeliness in processing revisions resulting from TDN's/TDL's has been an issue in previous reports. There was not enough activity in this area this year to evaluate this issue.

DOGM no longer grouped dissimilar violations under a single part of an NOV, and no longer terminated enforcement actions prior to completion of the specified remedial actions. However, DOGM continued to terminate enforcement actions based only on plan submittal rather than on plan approval and completion of on-the-ground abatement measures.

During EY 1992, DOGM exceeded the programmatic timeframe for assessing proposed civil penalties 31 percent of the time, indicating that further refinement in this program area is still needed.

DOGM has not followed through with statutory changes and amendments to the State program that it proposed during EY 1991 to resolve concerns relating to informal hearing and assessment conference processes. DOGM indicated that it still plans to make these changes.

DOGM has not reclaimed a bond forfeiture site for which it collected the bond monies in 1988. DOGM planned to initiate and complete reclamation during the 1992 calendar year. DOGM now files inspection reports for inspections that it conducts at bond forfeiture sites.

No significant issues were noted in OSM's evaluation of DOGM's AMR Program in the previous report.

VII. Actions Affecting Program Implementation

The Southern Utah Wilderness Alliance and the Utah Chapter of the Sierra Club requested that OSM evaluate the Utah State program and consider withdrawing approval of the program pursuant to 30 CFR Part 733. OSM responded that withdrawal of State primacy was not warranted.

DOGM challenged in Federal District Court OSM's partial disapproval of a proposed State program amendment relating to roads. OSM and DOGM settled the litigation and Utah withdrew it's suit.

During EY 1992, no external actions occurred that affected implementation of the AMR Program.

VIII. Summary Findings

A. Regulatory Program

Regulatory Program Element 1: Permitting Actions

Sub-elements Reviewed: A.1. Processing of new mining permit applications; A.1.1. AVS operation, maintenance and use; A.3. Processing of notices of intent to explore. A.4. Processing of applications for permit revisions, transfers, assignments, and sales. A.6. Midterm permit reviews; and L.1. Technical subject evaluation - processing of hydrologic information.

Type of Review: 2, 2, 2, 2, 2, and 3(c).

Summary Findings: During EY 1992, OSM reviewed the administrative and correspondence files of two PAP's that DOGM was reviewing. DOGM processed these PAP's appropriately and in accordance with the approved State program. DOGM's actions in determining administrative completeness and in interacting with other governmental agencies were complete and in accordance with the approved program. DOGM ensured that the PAP's were complete and accurate.

OSM continuously reviewed DOGM's use of the AVS. DOGM used and maintained the AVS in a manner that is consistent with its regulations and the Memorandum of Understanding with OSM. Problems noted last year with incorrect information in the AVS database were rectified.

OSM reviewed all Notices of Intent to Explore (NOI's) that DOGM processed. DOGM processed NOI's in accordance with its regulations. DOGM interacts appropriately with necessary Federal agencies involved in the planned exploration projects.

DOGM processed permit revisions, transfers, sales and assignments in a manner consistent with its approved regulations. During this EY, actions taken regarding permit transfers resolved the concerns noted in the 1991 Evaluation Report.

OSM reviewed DOGM's processing of three midterms that were conducted during EY 1992. DOGM accomplished its midterm reviews in a timely and appropriate manner. Assessment of the permit's adequacy and accuracy was complete and the problems found were resolved in a judicious manner.

During OSM's EY 1991 review of permitting renewals, it was determined that there were comments from governmental agencies and interested parties that alleged negative impacts were occurring to the hydrologic regimes at three mines. This resulted in a review of DOGM's processing of hydrologic information by OSM hydrologists. OSM determined that DOGM's technical staff was doing a good job in identifying deficiencies in the hydrologic information in permit applications but that DOGM was not reviewing information submitted in response to the deficiencies in a timely manner. This issue of timeliness remains unresolved, but the potential of environmental significance is less than originally believed because the actual ground situation has changed or the Federal Land Management Agency has taken steps to address problems.

1992 ANNUAL REPORT FOR UTAH

27

Two problems were reported in the EY 1991 report, permit renewal methodology and the permitting of haul and access roads. In the permits that OSM reviewed, DOGM continued to renew permits with significant technical deficiencies in the PAP. Under terms of the agreement with OSM, DOGM will not have to permit access and coal haul roads at existing mines.

One problem reported in EY 1990, transmittal of information to OSM, was resolved. Continuous review throughout the year determined that permitting and inspection and enforcement information was generally transmitted to OSM in a timely manner.

Regulatory Program Element 2: Bonding

Sub-elements Reviewed: B.2. Computation and adequacy; and B.7. Forfeiture.

Type of Review: 4 and 2.

Summary Findings: During EY 1992, OSM reviewed the correspondence and administrative files of four PAP's. DOGM set bond amounts that were adequate to allow a third party to accomplish the approved reclamation plan. DOGM improved its recordkeeping and bond document administration since this subelement was reviewed during EY 1990. DOGM took appropriate action in processing the forfeiture of bond at three minesites during the last three evaluation periods. Generally, DOGM made a diligent effort to fulfill its obligations. This included marketing the real estate that was posted as bond collateral and initiating the bid process for third party reclamation.

DOGM assessed the possibility of litigation for additional monies if reclamation costs exceeded the amount of bond forfeited at one mine; however no such action has been initiated by the close of the EY.

During its EY 1991 review of site reclamation of bond forfeiture sites, OSM found that DOGM was untimely in reclaiming one site. At this particular site, DOGM forfeited the bond in 1986 and collected it in 1988. OSM continued discussions with DOGM into EY 1992 concerning reclamation of this site; however the site remained unreclaimed at the end of EY 1992. DOGM plans to reclaim this site before the end of the 1992 calendar year.

←
Done

Regulatory Program Element 3: Inspections

Sub-elements Reviewed: C.1. Inspection frequency and procedures; C.2.a. Inspection reports - accuracy and completeness; C.2.b. Inspection reports - documentation of violations, site conditions, and mine activity status; C.3. Maintenance of inspectable units list and inspection database; C.4. Handling of citizen complaints and request for inspections.

Type of Review: 2,2,2,2, and 3(e)

96% and 100% respectively

conflict between 24 & AS

Summary Findings: DOGM conducted 244 partial and 133 complete inspections on 32 inspectable units. DOGM met the required frequency of inspection for all active and inactive sites except for 3 sites where it missed 2 complete inspections and 2 partial inspections (Tables 3 and 4). DOGM is in compliance with requirements for conducting inspections on exploration sites to ensure compliance with the State program.

OSM reviewed State inspection reports by selecting a 25 percent sample of inspectable units from EY 1990, a 25 percent sample from EY 1991, and a 100 percent sample from the first 8 months of EY 1992. This sample included 429 inspection reports. OSM found that, on complete inspections, DOGM generally documented, by using an inspection checklist, that all records were reviewed and all performance standards and permit requirements were evaluated for the entire permit area. DOGM also adequately documented which performance standards and permit requirements were evaluated during partial inspections. One problem often noted for complete and partial inspections was that the information contained on the inspection checklist often did not agree with the information contained in the inspection report narrative. Inspection report narratives generally did not contain an adequately detailed description of the permit status and site conditions. In most cases, DOGM adequately described the seriousness of the observed violations and enforcement actions taken or modified, vacated, or terminated in the cases where inspection reports were written. However, during EY 1992, OSM identified four instances where DOGM took enforcement actions resulting from inspections but did not write inspection reports. OSM also identified a more commonly occurring problem: inspection reports did not describe the status of enforcement actions from one report to the next. In this regard, inspection report narratives did not exhibit continuity with and cognizance of conditions discussed in previous inspection reports. DOGM management initiated briefings with inspectors concerning inspection report contents to resolve these problems. DOGM is also considering revising its report format to promote accuracy and consistency.

Through a review of DOGM's database, OSM determined that DOGM adequately maintained an inspectable units list and inspection database.

OSM reviewed DOGM's citizen complaint files during EY 1991, and found that it did not maintain complete files, did not adequately track citizen complaint activity, and did not always respond to complainants within the specified timeframes. During EY 1992, OSM conducted a follow-up review of these problems and found them resolved.

Type of Review: 3(d), 2, 2, 2, and 2.

See
discarded
length
Take A.9

During the RSI, DOGM cited 8 of the 12 previously uncited LSCI violations. OSM addressed the remaining 4 violations through the issuance of TDN's. In addition to the LSCI violations, OSM observed 14 violations that it believed to have occurred after the LSCI. Of these 14 violations, DOGM properly cited 13 during or before the RSI, and the operator immediately corrected one violation during the RSI. This data reflected that DOGM is more cooperative in citing violations when accompanied by OSM than it was during past EY's, continuing a positive trend noted during the EY 1991.

In addition to the violations noted above, OSM also observed 17 permit defects during RSI's. The existence of this many permit defects indicates that DOGM needs to implement a procedure, either through the midterm permit review process, the permit renewal process, or through other means, to ensure that permits accurately reflect existing, on-the-ground conditions. OSM plans to follow-up on this issue during EY 1993. *Change in 1993*

During EY 1991, OSM found that DOGM: (1) sometimes grouped dissimilar violations under a single part of an NOV rather than issuing an NOV with multiple parts; (2) DOGM sometimes terminated enforcement actions prior to completion of the remedial actions specified in the enforcement actions; and (3) DOGM sometimes terminated enforcement actions based on plan submittal rather than on plan approval and, where appropriate, performance of abatement measures. During EY 1992, OSM found that DOGM no longer grouped dissimilar violations under a single part of an NOV, and DOGM no longer terminated enforcement actions prior to completion of the remedial actions specified in the enforcement actions. OSM found that DOGM continued to terminate some enforcement actions based on either: (1) plan submittal rather than on plan approval and implementation; or (2) based on plan approval but not on plan implementation to correct on-the-ground conditions. OSM found 6 cases of this occurrence out of 60 enforcement actions that it

also: ~~about~~ 14 identified during RSI and properly cited on 100% of Non Lsci
4 Lsci id ^{is} cited - 25% of great Lsci cited ^{cited} _{great}

1992 ANNUAL REPORT FOR UTAH

reviewed. This was particularly true when erosion violations were cited. DOGM agreed to work toward preventing recurrence of this problem. OSM will review this aspect of NOV terminations during EY 1993 to ensure resolution.

During EY 1992, OSM conducted an in-depth evaluation of DOGM's POV reviews. OSM reviewed enforcement actions taken during EY 1990, EY 1991, and EY 1992 to determine if potential POV's existed. OSM also reviewed DOGM's internal system for monitoring patterns. DOGM conducted monthly pattern searches to identify potential POV's. DOGM's review system was thorough and in accordance with the approved program. Two identified potential patterns were still under the review process at the end of the EY.

OSM also conducted an in-depth review of the sub-element "Timeliness and Effectiveness of Alternative Enforcement Actions." The approved State program requires that DOGM pursue alternative enforcement action within 30 days through one of four alternatives when a Cessation Order (CO) issued for failure to abate a violation remains unabated after 30 days. Since the last review of this subelement, there have been two instances requiring alternative enforcement, both relating to the same permit. In both, DOGM did not initiate alternative enforcement within the 30 days required, nor had DOGM initiated such action at the end of EY 1992 - 11 months after such action should have been initiated.

During the EY, OSM issued 7 TDN's addressing 8 violations. DOGM generally responded to the TDN's within the ten-day period. OSM found DOGM's responses to TDN's to be appropriate in all cases except one; however, DOGM issued an NOV to have the violation corrected prior to OSM's follow-up inspection therefore, Federal enforcement was unnecessary.

Build with to est f out

Regulatory Program Element 5: Civil Penalties

Sub-elements Reviewed: E.1. Procedures.

Type of Review: 3(d).

Summary Findings: During EY 1990, OSM found that DOGM did not always assess proposed civil penalties within the 30-day timeframe specified by the approved program, assessing 67 percent of the proposed penalties late. At that time, the cause was determined to be that DOGM was waiting for termination of NOV's prior to proposing penalties. After discussions during quarterly meetings, DOGM increased its efforts to meet the 30-day timeframe. During EY 1991, OSM reviewed this subelement as a follow-up to the 1990 concerns, and found that DOGM had shown substantial improvement in adhering to these timeframes, assessing 22 percent of the proposed penalties late. During EY 1992, OSM reviewed this subelement again to ensure that the issue was completely resolved. Although the average time for assessment was 27 days, OSM found that 25 out of 81 (31 percent) of the proposed civil penalties were assessed late. The late assessments ranged from one day late to 23 days late, with the average being 12 days late. While this does not appear to be a significant problem, it does indicate a need for additional refinement in this program area. This subelement is scheduled to be reviewed again as part of the routine cyclical review, during EY 1993.

Regulatory Program Element 6: Administrative and Judicial Review

Sub-elements Reviewed: F.1. Review procedures.

Type of Review: 3(d).

Summary Findings: During past EY's, OSM found that DOGM's procedures for holding informal assessment conferences and informal hearings were not in accordance with its approved program. During EY 1991, DOGM made procedural changes to correct the majority of the problems. At that same time, DOGM proposed making statutory and program changes through the program amendment process to: (1) ensure a permanent correction of the problems; (2) resolve a discrepancy where DOGM provides informal hearings whenever requested by an operator rather than only when the enforcement action requires cessation of mining as currently provided at Utah R645-400-351; and (3) incorporate burden of proof procedures into the State program similar to those contained in the Federal administrative procedures.

~~DOGM has not followed through with the statutory and program changes that it previously proposed making.~~ While the majority of the past problems were corrected through administrative changes, OSM believes that DOGM should follow through with the proposed formal program changes. DOGM indicated that it also agrees that these statutory changes and program amendments are still necessary. DOGM indicated that it plans to make changes to the State Administrative Procedures Act first, and subsequently make the remaining statutory and regulatory changes.

Regulatory Program Element 7: Designation of Lands Unsuitable for Mining

Sub-elements Reviewed: G.1. Processing of petitions; G.2. Maintenance of database and inventory system.

Type of Review: 2 and 2.

Summary Findings: OSM found that there are currently no lands in Utah designated as unsuitable for mining and there are no pending petitions. Due to the lack of activity in this program area, DOGM has had no need for a lands-unsuitable database and inventory system.

Regulatory Program Element 8: Blaster Certification

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings: This element was not selected for review during this EY. It is scheduled for review during EY 1993.

Regulatory Program Element 9: Small Operator Assistance

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings: This element was not selected for review during this EY. It is scheduled for review during EY 1994.

Regulatory Program Element 10: Maintenance of Approved Program

Sub-elements Reviewed: J.1. Notification of program changes; J.2. Responses to part 732 notifications; and J.3. Promulgation and implementation of approved program amendments

Type of Review: 2, 2, and 2.

Summary Findings: The EY 1991 report identified instances where changes were made to the Utah Statute that were not submitted to OSM. During this EY, each of those omissions were resolved by DOGM's submission and OSM's approval of program amendments for those discrepancies. During this EY, OSM performed detailed reviews of all amendments to the approved State program that were submitted by Utah. Neither OSM's inspectors nor other State or Federal agencies raised any concerns or issues that indicated that the State regulatory authority conducted activities that were not part of the approved State program. Consequently, OSM found that Utah appropriately notified OSM and received approval for changes to the State program prior to implementing them.

In most cases, DOGM did a good job in submitting approvable amendments to its program to resolve Part 732 notifications and to make its program "no less effective than" the Federal regulations and "no less stringent than" SMCRA. The only Part 732 letter issues that remain to be resolved concern the permitting of roads (required amendments n and o, dated November 22, 1991), the reclamation of highwalls (UT-730, dated January 17, 1992), and dust control on roads (issue D-5 of RRIII dated November 27, 1989). Three issues remain to be resolved from the Part 732 letter for ownership and control. Utah's formal amendment of February 28, 1992, adequately addresses the three ownership and control issues, however, by the end of the EY, OSM had not published the final rule approving the amendment.

DOGM promulgated and implemented approved program amendments in a timely manner. Utah usually promulgates its rules before submission to OSM as formal amendments. Whenever OSM does not approve a rule or approves a modified version of what Utah originally promulgated, the State then amends its program to incorporate the Federally approved wording. DOGM occasionally published and distributed copies of revised versions of its rules merging approved amendments into the existing rules. This facilitates the understanding and implementation of the currently approved program regulations and allows operators to keep abreast of not only the complete set of rules, but where highlighted, of areas within the State's rules where the language is not to be read without consulting the Federal Register notice approving the rule.

Regulatory Program Element 11: Program Administration

Sub-elements Reviewed: K.1. Grants management; and K.2. Data management.

Type of Review: 2, and 3(d).

Summary Findings: OSM reviewed all documents received involving grant transactions. DOGM continues to administer and manage grants in accordance with the Department of Treasury, Department of the Interior, and Office of Management and Budget requirements. The Single Audit Report did not question any expenditures of the Utah Regulatory Program and did not identify any material weaknesses in the internal control systems used in the State's accounting practices. The State draws down Federal funds on a reimbursement basis, which exceeds Federal cash management requirements. Grant applications and reports were generally received on a timely basis and were found to be acceptable. Contact with State personnel revealed no significant concerns in grants management.

Through continuous review of various program functions, OSM found that DOGM has established and adequately maintains data management systems to meet its internal program needs as well as OSM's data management requirements. During EY 1992, a data management problem noted during the previous EY relating to maintenance of citizen complaint files was resolved.

VIII. Summary Findings

B. AMLR Program

AMLR Program Element 1: Project Planning

Sub-elements Reviewed: A.1. Inventory maintenance; A.2. Consideration of public comments; A.5. Rights of entry; and A.6. Lien eligibility determinations.

Type of Review: 2, 2, 2, and 2.

Summary Findings: DOGM maintains a complete, current, prioritized inventory of problem areas eligible for, and in need of, reclamation. During the period summarized by this report, DOGM updated the AMLIS with 26 PAD's. Seventeen PAD's covered problem areas not previously in AMLIS. The remaining PAD's were updated to reflect completed reclamation or new hazards in existing problem areas. DOGM also maintains a computerized inventory of prioritized noncoal hazards. Performance during the previous period in this respect was satisfactory. OSM's evaluation is based on review of 26 PAD's and a construction grant application submitted by DOGM.

DOGM adheres to the project ranking and selection process approved in its AMLR Plan. DOGM periodically updates its list of hazards in the AMLIS and its own computerized list of prioritized and ranked coal and noncoal hazards. DOGM provides for adequate public participation in the project selection process. Project files and grant applications contain documentation of efforts to involve the public in project selection. Performance in this respect during the previous period also was satisfactory. OSM's evaluation is based on review of construction grant applications and DOGM's files for seven projects.

DOGM acquired rights of entry prior to reclamation and used non-consensual entry procedures where they appeared to be necessary in accordance with its approved Plan. On one coal project, DOGM exercised non-consensual entry authority in addition to obtaining right of entry because of pending foreclosure proceedings against the owner(s). OSM's evaluation is based on its review of realty files for 12 projects and discussions with DOGM staff.

No liens were assessed on reclaimed projects during this period. DOGM determined if real estate parcels within project areas might be subject to liens prior to reclamation and contracted for pre- and post-construction appraisals of those parcels.

Utah's Administrative Code gives DOGM discretionary authority " * * * to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the fair market value * * *." Utah's Code also provides that a lien " * * * may be waived by the Board if the reclamation work performed on private land primarily benefits health, safety, or environmental values of the greater community or area in which the land is located * * *." DOGM waived liens during this evaluation period and at the end of the previous period using the criterion that reclamation primarily benefits health, safety, or environmental values of the the greater community or area in which the reclaimed land is located based on its position that the Board's authority to do so is delegated to DOGM. DOGM contracted for professional appraisals where staff appraisals indicated relamation might affect fair market value and those parcels are not covered by the waivers in question. The determination of community benefit as a result of reclamation is not in question, either.

1992 ANNUAL REPORT FOR UTAH

DOGM's lien determinations were not summarized in the report for the previous evaluation period; OSM's review showed that use of the community benefit provision for waivers appeared to begin in mid-June 1991. OSM's evaluation is based on review of realty files for 14 projects and discussions with DOGM staff.

AMLR Program Element 2: Project Construction

Sub-elements Reviewed: B.1. Construction management; B.2. Post construction monitoring and evaluation; B.4. Project maintenance; and B.5. Lien recording and maintenance.

Type of Review: 2, 2, 2, and 2.

Summary Findings: DOGM effectively used staff resources and the construction season to achieve program objectives and project goals. Reclamation was consistent overall with project specifications and grant proposals while providing for changes to accommodate site-specific conditions. Projects complied with special permit conditions and impact mitigation measures. Additionally, DOGM staff monitored construction satisfactorily. This topic was not evaluated in OSM's report for the previous period. OSM's evaluation is based on review of a construction grant and amendment, semi-annual grant reports, and specifications for seven projects. It is also based on OSM's eight visits to seven proposed projects, 11 visits to six projects under construction, and six visits to six reclaimed projects during the period.

DOGM monitors completed projects to determine maintenance needs, to determine if reclamation is successful, and to determine if reclamation techniques and design alternatives accomplished site-specific project goals. DOGM does not specifically schedule visits to a sample of completed projects to evaluate maintenance needs or to evaluate the effectiveness of completed reclamation as suggested by the March 6, 1980, final AML guidelines. Instead, DOGM checks reclamation whenever its staff are in the vicinity of completed projects. Overall, reclamation achieves project goals for site restoration and long-term hazard abatement. This topic was not evaluated in the report for the previous period. OSM's evaluation is based on review of files for 12 projects and discussions with AMR Program staff. It is also based on OSM's six visits to six reclaimed projects during the period.

DOGM did not assess any liens during the 1992 evaluation period. It awarded contracts for realty appraisals on two projects on which it believed reclamation might affect fair market value. The results of the appraisals were not final by the end of the period because reclamation of the projects was not completed. DOGM periodically notifies one landowner of the continuing lien assessed on its reclaimed coal loadout in July 1985.

AMLR Program Element 3: Program Administration

Sub-elements Reviewed: C.1.c. Timeliness of applications and reports.

Type of Review: 2.

Summary Findings: DOGM submitted AML grant applications and reporting documents in a generally timely manner during this evaluation year. It performed similarly during the previous period. OSM's evaluation is based on review of grant applications, semi-annual reports, and final financial reports submitted by DOGM during the year.

Drawdowns and disbursements, accounting procedures, maintenance of internal controls, audits and implementation of audit recommendations, procurement and management of property and services, data management, coordination with other agencies, and management and disposal of abandoned mine lands were not scheduled to be summarized in OSM's evaluation report for this period. OSM's report for the 1993 period will evaluate drawdowns and disbursements, accounting procedures, audits and implementation of audit recommendations, and management and disposal of abandoned mine lands. The evaluation report for the 1994 period will cover maintenance and internal controls, and procurement and management of property and services.

AMLR Program Element 4: Maintenance of approved reclamation plan

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings: The Maintenance of Approved Reclamation Plan element was not scheduled to be evaluated for the 1992 Evaluation Year. It will be evaluated in OSM's reports during EY's 1993 and 1994.

APPENDIX A

Tabular Summaries of Data Pertaining to Mining, Reclamation and Program Administration

These tables present data pertinent to mining operations, State and Federal regulatory activities and the reclamation of abandoned mines within Utah. They also summarize funding provided by OSM and Utah staffing. Unless otherwise specified, the reporting period for the data contained in all tables is the 1992 evaluation year (July 1, 1991 - June 30, 1992). Additional data used by OSM in its evaluation of Utah's performance is available for review in the evaluation files maintained by the Albuquerque Field Office.

TABLE 1

COAL PRODUCTION (Millions of Short Tons)			
Calendar year	Surface mines	Underground mines	Total
1989	0	20.8	20.80
1990	0	21.6	21.60
1991	0	21.9	21.90

TABLE 2

INSPECTABLE UNITS (As of June 30, 1992)												
Coal mines and related facilities	Number and status of units									Acreage ^A (hundreds of acres)		
	Active		In temporary cessation	In reclamation		Abandoned		Totals				
	IP	PP	PP	IP	PP	IP	PP	IP	PP	IP	PP	Total
STATE and PRIVATE LANDS REGULATORY AUTHORITY: UTAH												
Surface mines	0	0	0	0	0	0	0	0	0	0	0	0.00
Underground mines	1	18	1	0	0	1	2	2	21	5.70	439.70	445.40
Other facilities	0	2	0	0	0	0	0	0	2	0	5.20	5.20
Subtotals	1	20	1	0	0	1	2	2	23	5.70	444.90	450.60
FEDERAL LANDS REGULATORY AUTHORITY: UTAH												
Surface mines	0	0	0	0	0	0	0	0	0	0	0	0.00
Underground mines	1	16	2	0	0	0	0	1	18	13.61	735.56	749.17
Other facilities	0	2	0	0	0	0	0	0	2	0	1.27	1.27
Subtotals	1	18	2	0	0	0	0	1	20	13.61	736.83	750.44
INDIAN LANDS REGULATORY AUTHORITY: OSM												
Surface mines	0	0	0	0	0	0	0	0	0	0	0	0.00
Underground mines	0	0	0	0	0	0	0	0	0	0	0	0.00
Other facilities	0	0	0	0	0	0	0	0	0	0	0	0.00
Subtotals	0	0	0	0	0	0	0	0	0	0.00	0.00	0.00
ALL LANDS ^B												
Surface mines	0	0	0	0	0	0	0	0	0	0.00	0.00	0.00
Underground mines	1	22	2	0	0	1	2	2	26	19.00	1,175.26	1,194.26
Other facilities	0	4	0	0	0	0	0	0	4	0.00	6.47	6.47
Totals	1	26	2	0	0	1	2	2	30	19.00	1,181.73	1,200.73
Average number of permits per inspectable unit (excluding exploration sites) 1												
Average number of acres per inspectable unit (excluding exploration sites) 3,639												
Number of exploration permits on State and private lands: .. 1 On Federal lands: 0												
Number of exploration notices on State and private lands: ... 3 On Federal lands: 8												
IP: Initial regulatory program sites. PP: Permanent regulatory program sites.												
^A Includes only the acreage located on the indicated type of land when a unit is located on more than one type of land. ^B Numbers of units may not equal the sum of the preceding categories because a single inspectable unit may include lands in more than one of the preceding categories. ^C Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management.												

TABLE 3

STATE INSPECTION ACTIVITY								
Type of inspectable unit	Number of inspections conducted		Percent of required inspections conducted ^A		Inspectable units for which State met required inspection frequency			
	Complete inspections	Partial inspections	Complete inspections	Partial inspections	Complete inspections		All inspections	
COAL MINES AND FACILITIES					Number	%	Number	%
Active	113	220	99	100	26	96	26	96
Inactive	8	3	100	N/A	2	100	2	100
Abandoned	12	21	92	92	2	67	1	33
Totals	133	244	98	99	30	94	29	91
Exploration permits ^B	*	*	N/A	N/A	N/A		N/A	
Exploration notices ^B	12	0	N/A	N/A	N/A		N/A	

^A Calculated on a site-specific basis. Excess complete inspections are considered partial inspections. For each site, any inspections in excess of the total number required by the approved program are not included.

^B Includes all valid or unreclaimed notices and permits. No inspection frequency data are provided since SMCRA does not establish a minimum numerical inspection frequency for coal exploration activities.

*Information not available from the State

we can provide if needed

TABLE 4

TRENDS IN INSPECTABLE UNITS AND STATE INSPECTIONS				
Evaluation Year		1990	1991	1992
Inspectable units for which State has primacy jurisdiction				
Surface mines:	Active	0	0	0
	Inactive	0	0	0
	Abandoned	0	0	0
Subtotals for surface mines		0	0	0
Underground mines:	Active	22	23	22
	Inactive	4	3	3
	Abandoned	2	2	3
Subtotals for underground mines		28	28	28
Other facilities:	Active	4	4	4
	Inactive	0	0	0
	Abandoned	0	0	0
Subtotals for other facilities		4	4	4
All mine types:	Active	26	27	26
	Inactive	4	3	3
	Abandoned	2	2	3
Totals		32	32	32
Exploration permits		1	1	1
Exploration notices		8	11	12
State inspections conducted				
Complete		136	143	145
Partial		245	222	244
Totals		381	365	389
Percent of required State inspections conducted				
Complete inspections		99	100	98
Partial inspections		100	100	99
Citizen complaints received		2	3	3

TABLE 5

STATE AND OSM ENFORCEMENT ACTIVITY						
Type of enforcement action taken	Actions taken by State		Actions taken by OSM on:			
			Sites where State is the primary regulatory authority		*Sites where State is NOT the primary regulatory authority	
	Number of actions	Number of violations	Number of actions	Number of violations	Number of actions	Number of violations
Notice of violation issued	71	85	0	0	N/A	N/A
Imminent harm cessation order issued	2	2	0	0	N/A	N/A
Failure-to-abate cessation order	3	4	0	0	N/A	N/A
Show cause order issued for pattern of violations N/A	0	N/A	N/A 0	N/A 0	N/A 0	N/A 0
Permit suspended ^A	0	N/A	N/A 0	N/A 0	N/A	N/A
Permit revoked		N/A	N/A 0	N/A 0	N/A	N/A
Individual civil penalty assessed	0	0	0	0	N/A	N/A
Criminal penalty requested	0	0	0	0	N/A	N/A
Criminal penalty assessed	0	0	0	0	N/A	N/A
Injunction requested	0	0	0	0	N/A	N/A
Injunction obtained	0	0	0	0	N/A	N/A
Settlement agreement approved in lieu of further enforcement action	0	0	0	0	N/A	N/A
N/A: Not Applicable ^A Average duration of permit suspension: <u>N/A</u> Utah <u>N/A</u> OSM						

*The State is the primary regulatory authority on all sites in Utah.

[Handwritten signature]

me currently

TABLE 6

OSM INSPECTIONS OF SITES WHERE THE STATE IS THE PRIMARY REGULATORY AUTHORITY						
Annual random sample size (from Directive INE-20): <u>100%</u>						
Type of unit inspected	Type of inspection					Totals
	Random sample	State bond release	Other oversight	Ten-day notice followup ^A	Enforcement action followup	
Surface mines	0	0	0	0	0	0
Underground mines	14	1	1	0	0	16
Preparation plants	2	0	0	0	0	2
Other facilities	0	0	0	0	0	0
Subtotals	16	1	1	0	0	18
Exploration permits	0	0	0	0	0	0
Exploration notices	0	0	0	0	0	0
Totals	16	1	1	0	0	18
Active	15	1	1	0	0	17
Inactive	1	0	0	0	0	1
Abandoned	0	0	0	0	0	0
Initial program	0	0	0	0	0	0
Permanent program	16	1	1	0	0	18
^A When State response is inappropriate and Federal inspection is necessary.						

TABLE 7

OSM INSPECTIONS OF SITES WHERE THE STATE IS NOT THE PRIMARY REGULATORY AUTHORITY*								
Type of unit inspected	Type of program under which inspections were conducted							
	Federal lands ^A		Indian lands		Other		Totals	
	Complete insp.	Partial insp.	Complete insp.	Partial insp.	Complete insp.	Partial insp.	Complete insp.	Partial insp.
Surface mines	0	0	0	0	0	0	0	0
Underground mines	0	0	0	0	0	0	0	0
Preparation plants	0	0	0	0	0	0	0	0
Other facilities	0	0	0	0	0	0	0	0
Subtotals	0	0	0	0	0	0	0	0
Exploration permits	0	0	0	0	0	0	0	0
Exploration notices	0	0	0	0	0	0	0	0
Totals	0	0	0	0	0	0	0	0
Active	0	0	0	0	0	0	0	0
Inactive	0	0	0	0	0	0	0	0
Abandoned	0	0	0	0	0	0	0	0
Initial program	0	0	0	0	0	0	0	0
Permanent program	0	0	0	0	0	0	0	0
^A In those States that have not entered into a State - OSM cooperative agreement providing for State regulation of mining and exploration on Federal lands.								

*This table is not applicable to Utah because the State is the primary regulatory authority on all sites.

TABLE 8

OSM RANDOM SAMPLE INSPECTION COMPLIANCE FINDINGS		
Number of sites inspected..... 16		
Number of violations per inspectable unit	Inspectable units with indicated number of violations observed by OSM ^A	
	Number	Percent ^B
None	5	31
1	6	38
2	1	6
3	2	13
4	0	0
5	0	0
6	1	6
7	0	0
8	1	6
9	0	0
10	0	0
More than 10	0	0

^A Does not include violations in ten-day notices on appeal to the Deputy Director or that have not been affirmed on appeal.

^B Percent of total number of sites inspected on which indicated number of violations were observed.

Note: This table differs from Tables 9 and 10 in that it depicts the number of violations observed by OSM inspectors on random sample inspections in Utah during EY 1992 without regard to when the violation occurred. It provides a general indication of how effectively the industry has incorporated environmental protection into its standard operating procedures. Because States cannot control the incidence of violations, this table should not be interpreted as an indicator of State performance. Also, since this table is intended to reflect only the extent of industry compliance at the time of the OSM random sample inspection, it excludes all violations previously cited by the State which no longer exist at the time of the OSM inspection.

TABLE 9

DISTRIBUTION OF VIOLATIONS ^A ON OSM RANDOM SAMPLE INSPECTION SITES BY PERFORMANCE STANDARD			
Performance standard category	Violations present at time of last State complete inspection		Other violations observed by OSM
	Number cited by State	Number uncited by State	
Mining Within Permit Boundaries	0	2	0
Signs and Markers	0	1	1
Sediment Control Measures	1	3	5
Design and Certification Requirements-Sediment Control	0	1	0
Effluent Limits	1	0	0
Ground Water Monitoring	0	1	0
Topsoil Handling	0	0	2
Backfilling & Grading	0	0	4
Following Reclamation Schedule	0	1	0
Revegetation Requirement	0	0	1
Disposal of Excess Spoil	0	1	0
Other:			
Non-Coal Waste	1	0	1
Liability Insurance	0	1	0
Coal Waste Fire	0	1	0
Ownership/Control	1	0	0
Totals	4	12	14
^A Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.			
Note: For all sites on which OSM conducted random sample inspections in Utah during EY 1992, this table provides a breakdown by performance standard of the number of violation that were present at the time of the last State complete inspection (LSCI), including those previously cited by the State and no longer present at the time of the OSM inspection. It also categorizes these violations by whether they were cited or uncited by the State inspector at the time of the LSCI. In addition, the last column categorizes all other OSM observed violations on these sites by the type of performance standard violated.			

TABLE 10

SERIOUSNESS OF VIOLATIONS ^A PRESENT AT TIME OF LAST STATE COMPLETE INSPECTION (On OSM Random Sample Inspection Sites)								
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS REMAINING WITHIN PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of impact or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
None or unlikely	1	5	0	0	0	0	1	5
Likely	3	1	0	4	0	0	3	5
Occurred	0	1	0	0	0	0	0	1
Subtotals	4	7	0	4	0	0	4	11
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS EXTENDING OUTSIDE PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of actual or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
None or unlikely	0	0	0	0	0	0	0	0
Likely	0	0	0	0	0	0	0	0
Occurred	0	1	0	0	0	0	0	1
Subtotals	0	1	0	0	0	0	0	1
NUMBER OF ADMINISTRATIVE (RECORDKEEPING) VIOLATIONS								
	Degree of obstruction to enforcement						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
	0	0	0	0	0	0	0	0
ALL TYPES OF VIOLATIONS								
	Degree of impact or obstruction						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
TOTALS (entire table)	4	8	0	4	0	0	4	12
^A Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.								
^B Violations cited by the State at the time of the last State complete inspection.								
^C Violations not cited by the State at the time of the last State complete inspection.								
Note: For all sites on which OSM conducted random sample inspections in Utah during EY 1992, Table 10 summarizes the seriousness of those violations which existed at the time of the last State complete inspection (LSCI), including those violations which were previously cited by the State but no longer exist at the time of the OSM inspection. It also characterizes the seriousness of these violations according to whether they were cited by the State at the time of the LSCI.								

TABLE 11

CITIZEN COMPLAINTS		
Number of complaints	State	OSM
Action pending as of July 1, 1991	0	0
Complaints received in EY 1992	3	0
Complaints referred to State	N/A	0
Complaints investigated	3	0
Responses provided to complainant	3	0
Action pending as of June 30, 1992	0	0

TABLE 12

PERMIT APPLICATIONS RECEIVED BY STATE				
Type of application	Surface mines	Underground mines	Other facilities	Totals
New permits	0	1	0	1
Renewals	0	8	0	8
Transfers, sales and assignments of permit rights	0	6	2	8
Small operator assistance	0	0	0	0
Exploration permits	0	0	0	0
Totals	0	15	2	17

TABLE 13

STATE PERMITTING ACTIONS (Applications Approved and Authorizations to Operate Issued)								
Type of application	Surface mines		Underground mines		Other facilities		Totals	
	No.	Acres	No.	Acres ^A	No.	Acres	No.	Acres
New permits	0	0	0	0	0	0	0	0
Renewals	0	0	8	674	0	0	8	674
Revisions (exclusive of incidental boundary revisions)	0	N/A	N/A	N/A	0	N/A	0	N/A
Incidental boundary revisions	0	N/A	0	N/A	0	N/A	0	0
Transfers, sales and assignments of permit rights	0	N/A	6	N/A	2	N/A	8	N/A
Small operator assistance	0	N/A	0	N/A	0	N/A	0	N/A
Exploration permits	0	N/A	0	N/A	0	N/A	0	N/A
Exploration notices ^B	0	N/A	0	N/A	0	N/A	0	N/A
Totals	0	0	14	674	2	0	16	674
Number of permits identified by OSM as being improvidently issued ^C								0
Number of improvidently issued permits for which the State took appropriate corrective action.								0
N/A: Not applicable.								
^A Includes only the number of acres of proposed surface disturbance.								
^B State approval not required. Does not involve either removal of more than 250 tons of coal or lands designated unsuitable for mining.								
^C Permits meeting the criteria of 30 CFR 773.20(b) and requiring rescission or other action by the State.								

check unclear

TABLE 14

BONDS RELEASED BY STATE (Permanent Program Permits)		
Reclamation phase	Number of release applications approved	Acres released
I	0	0
II	0	0
III	0	0

OK if only referring to E4 92

TABLE 15

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
	Sites	Dollars	Acres
Bonds forfeited as of July 1, 1991 ^A	3	\$255,380	21.5
Bonds forfeited during EY 1992	1	38,000	7.0
Forfeited bonds collected as July 1, 1991 ^A	1	\$34,180	2.0
Forfeited bonds collected during EY 1992	1	38,000	7.0
Forfeiture sites reclaimed during EY 1992	0	0 ^B	0
Forfeiture sites repermited during EY 1992	0	N/A	0
Forfeiture sites unreclaimed as of June 30, 1992	4	N/A	4
Excess reclamation costs recovered from permittee	0	0	0
Excess forfeiture proceeds returned to permittee	0	0	0
^A Includes data only for those forfeiture sites not fully reclaimed as of this date. ^B Cost of reclamation, excluding general administrative expenses.			

TABLE 16

STATUS OF STATE'S BOND POOL OR FORFEITURE RECLAMATION FUND* (For States with Alternative Bonding Systems)		
	July 1, 1991	June 30, 1992
Number of participating permits	N/A	N/A
Acreage of participating permits	N/A	N/A
Fund balance	N/A	N/A
Fund income	N/A	N/A
Expenditures	N/A	N/A
Funds restricted to use on a specific site (to be returned if permittee reclaims site)	N/A	N/A
Reclamation liabilities^A		
Number of sites	N/A	N/A
Acres	N/A	N/A
Estimated cost of reclamation	N/A	N/A
Portion of estimated reclamation cost covered by site-restricted bonds	N/A	N/A
^A Includes cost of reclaiming all sites for which the State has issued final bond forfeiture orders.		

***Utah does not have an alternative bonding system.**

TABLE 17

LANDS UNSUITABLE PETITIONS	
Petitions seeking to designate lands as unsuitable for mining	
Decisions pending as of July 1, 1991	<u>0</u>
Petitions received during EY 1992	<u>0</u>
Petitions approved during EY 1992	<u>0</u>
Petitions rejected during EY 1992	<u>0</u>
Petitions approved in part/rejected in part during EY 1992	<u>0</u>
Decisions pending as of June 30, 1992	<u>0</u>
Petitions seeking to terminate previous lands unsuitable designation	
Decisions pending as of July 1, 1991	<u>0</u>
Petitions received during EY 1992	<u>0</u>
Petitions approved during EY 1992	<u>0</u>
Petitions rejected during EY 1992	<u>0</u>
Petitions approved in part/rejected in part during EY 1992	<u>0</u>
Decisions pending as of June 30, 1992	<u>0</u>

TABLE 18

UTAH STAFFING (Fulltime Equivalents at End of Evaluation Year)			
Function	EY 1990	EY 1991	EY 1992
Abandoned mine land reclamation program (total)	7.00	8.75	9.00
Regulatory program			
Permit review ^A	9.25	11.50	13.00
Inspection ^A	3.75	4.00	4.00
Other (general administration, fiscal, personnel, etc.)	5.50	6.00	6.50
Totals for regulatory program	18.50	21.50	23.50
Interagency personnel assignments	0	0	0
Totals	25.50	30.25	32.50
^A Does not include supervisors or clerical personnel			

TABLE 19

**FUNDS GRANTED TO UTAH BY OSM
BY EVALUATION YEAR
(Millions of Dollars)**

Type of grant	Federal funds requested by Utah			Federal funds awarded			Funds deobligated			Percent of total program costs that are Federally funded		
	1990	1991	1992	1990	1991	1992	1990	1991	1992	1990	1991	1992
Administration and enforcement	1.30	1.39	1.54	1.10	1.16	0.34	0.18	0.00	0.00	84.9%	85.5%	85.5%
Abandoned mine land reclamation ^A	1.38	1.50	1.79	1.38	1.50	1.79	0.07	0.00	0.00	100%	100%	100%
Small operator assistance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100%	100%	100%
Other (AVS)	0.00	0.06	0.01	0.00	0.01	0.01	0.00	0.00	0.00	100%	100%	100%
Totals	2.68	2.95	3.34	2.48	2.67	2.14	0.25	0.00	0.00			

^A Includes administrative grants, construction grants, and cooperative agreements.

TABLE 20

STATUS OF AMLR FUNDS AWARDED TO UTAH (Millions of Dollars)						
Year of award	Funds approved by OSM	Cumulative obligations by Utah	Cumulative outlays by Utah	Funds deobligated by Utah (cumulative)	Funds remaining available for obligation	Percent of grant period lapsed
Administrative grants						
EY 81-90	4.24	3.76	3.76	0.48	0.00	100%
EY 91	0.64	0.39	0.25	0.00	0.25	75%
EY 92	1.00	0.00	0.00	0.00	1.00	0%
Subtotals	5.88	4.15	4.01	0.48	1.25	
Construction grants, exclusive of State emergency and noncoal project funding						
EY 81-90	8.26	7.05	7.05	0.79	0.42	95%
EY 91	0.81	0.26	0.12	0.00	0.55	25%
EY 92	0.28	0.00	0.00	0.00	0.28	0%
Subtotals	9.35	7.31	7.17	0.79	1.25	
State emergency project funding						
EY 81-90	N/A					
EY 91	N/A					
EY 92	N/A					
Subtotals	N/A					
Noncoal project funding						
EY 81-90	0.95	0.80	0.80	0.15	0.00	100%
EY 91	0.05	0.00	0.00	0.00	0.05	25%
EY 92	0.51	0.00	0.00	0.00	0.51	0%
Subtotals	1.51	0.80	0.80	0.15	0.56	
Cooperative agreements						
All EY	0.58	0.53	0.53	0.05	0.00	100%
Totals	17.32	12.79	12.51	1.47	3.06	
N/A Not-applicable UA Data unavailable						

TABLE 21

AML RECLAMATION ACHIEVEMENTS DURING EVALUATION PERIOD *				
Project benefit		AMLIS^A keyword(s)	Coal mining related	Noncoal mining related
1. Mine openings closed	(number)	MO, P, VO	43	287
2. Landslides stabilized	(acres)	DS	1	
3. Subsidence-prone areas stabilized and surface deformations repaired	(acres)	S, SP	1	
4. Hazardous impoundments and other water bodies modified or removed	(number)	HWB, DI		
5. Highwalls modified to minimize safety hazards	(linear feet)	DH		
6. Highwalls eliminated	(linear feet)	H		
7. Mining equipment, structures, and facilities removed	(sites)	HEF, EF	12	
8. Mine refuse piles and slurry ponds removed or stabilize	(acres)	DPE, GO, SL	10.6	
9. Industrial and residential trash dumps and waste disposal sites cleaned up	(acres)	IRW, DP		
10. Silt-clogged stream channels rehabilitated	(miles)	CS	0.4	
11. Polluted water supplies and swimming holes improved in quality or replaced	(number)	PWAI, PWHC	0.3	
12. Underground mine or coal seam fires controlled	(acres)	UMF		
13. Surface refuse fires extinguished	(acres)	SB	11	
14. Underground mine gas problems mitigated	(number)	GHE	4.2	
15. Mine spoils, pits, benches, and related disturbed areas regraded and/or revegetated	(acres)	CSL, BE, HR, PI, SA		
16. Mine drainage quality improved	(gal./min.)	WA		
17. Other environmental benefits	(itemize)	O		
18. Public facilities constructed or enhanced	(itemize)	P5		
19. Public land developed	(itemize)	P6		
Total acreage reclaimed by all projects			23.6	1
^A AMLIS: Abandoned Mine Lands Inventory System				

*Includes accomplishments of DOGM's volunteer program.

TABLE 22

AML RECLAMATION ACHIEVEMENTS SINCE PROGRAM APPROVAL				
Project benefit		AMLIS ^A keyword(s)	Coal mining related	Noncoal mining related
1. Mine openings closed	(number)	MO, P, VO	410	643
2. Landslides stabilized	(acres)	DS	1	
3. Subsidence-prone areas stabilized and surface deformations repaired	(acres)	S, SP	1	
4. Hazardous impoundments and other water bodies modified or removed	(number)	HWB, DI	1	
5. Highwalls modified to minimize safety hazards	(linear feet)	DH	1,925	
6. Highwalls eliminated	(linear feet)	H	400	
7. Mining equipment, structures, and facilities removed	(sites)	HEF, EF	165	
8. Mine refuse piles and slurry ponds removed or stabilize	(acres)	DPE, GO, SL	94.6	
9. Industrial and residential trash dumps and waste disposal sites cleaned up	(acres)	IRW, DP	2.2	
10. Silt-clogged stream channels rehabilitated	(miles)	CS	2.4	
11. Polluted water supplies and swimming holes improved in quality or replaced	(number)	PWAI, PWHC	1.3	
12. Underground mine or coal seam fires controlled	(acres)	UMF	4	
13. Surface refuse fires extinguished	(acres)	SB	40	
14. Underground mine gas problems mitigated	(number)	GHE	26	
15. Mine spoils, pits, benches, and related disturbed areas regraded and/or revegetated	(acres)	CSL, BE, HR, PI, SA	195.2	
16. Mine drainage quality improved	(gal./min.)	WA	0	
17. Other environmental benefits	(itemize)	O	0	
18. Public facilities constructed or enhanced	(itemize)	P5	1	
19. Public land developed	(itemize)	P6	0	
Total acreage reclaimed by all projects			338	7.1
^A AMLIS: Abandoned Mine Lands Inventory System				

APPENDIX B

OSM Cyclical Review Schedule for Evaluating State Program Elements and Sub-elements (Evaluation Years 1992-1994)

Utah

CYCLICAL REVIEW SCHEDULE

Evaluation Years 1992-1994

Regulatory Program Evaluation Codes

- 0 - No evaluation planned
- 1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)
- 2 - Routine cyclical in-depth review
- 3 - Selective-focus evaluation resulting from:
 - (a) Inspection findings
 - (b) Analysis of State data and documents routinely supplied to the Field Office
 - (c) Public concern
 - (d) Action plan item or other previously identified unresolved problem
 - (e) Action plan follow-up (verification of tentative resolutions)
- 4 - National priority review

AMLR Program Evaluation Codes

- 0 - No evaluation planned
- 1- Standard continuous oversight (routine site visits and/or review of State or Tribal data and documents routinely supplied to the Field Office)
- 2 - Routine cyclical in-depth review
- 3 - Selective-focus evaluation resulting from:
 - (a) Site visit findings
 - (b) Analysis of State or Tribal data and documents routinely supplied to the Field Office
 - (c) Public concern
 - (d) Action plan item or other previously identified unresolved problem
 - (e) Action plan follow-up (verification of tentative resolutions)
- 4 - National priority review

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
A. Permitting Actions			
1. Processing of new mining permit applications			
a. Administrative completeness	2	0	0
b. Public notice, availability for public review, consideration of comments and notice of decision	2	0	0
c. Coordination with other permitting authorities and solicitation and consideration of comments from other governmental agencies	2	0	0
d. Completeness and accuracy of data concerning ownership, compliance history, right of entry, and protected lands and structures	2	0	0
e. Adequacy of baseline data	2	0	0
f. Mining and reclamation plan	3(d)	0	0
g. Subsidence control plan	2	0	0
h. PHC/CHIA	2	0	0
i. Liability insurance	2	0	0
j. Written findings and documentation	2	0	0
k. Permit terms and conditions	2	0	0
l. AVS operation, maintenance, and use	2	4	0
2. Processing of exploration applications			
a. Application completeness	0	0	2
b. Public notice and consideration of comments	0	0	2
c. Justification for sale or commercial use	0	0	2
d. Written findings and documentation	0	0	2
3. Processing of notices of intent to explore	2	0	0
4. Processing of applications for permit revisions, transfers, assignments, and sales			
a. Determination of significance (revision applications only)	2	0	0
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
b. Public notice (if applicable) and consideration of comments	2	0	0
c. PHC/CHIA reevaluation (revision applications only)	2	0	0
d. Written findings and documentation	2	0	0
5. Processing of permit renewal applications			
a. Completeness	0	0	2
b. Public notice and consideration of comments	0	0	2
6. Midterm permit reviews	2	0	0
7. Periodic reviews of permits for special types of mining	0	0	2
8. Remediation of improvidently issued permits	0	2	0
B. Bonding			
1. Bond instrument tracking and security systems	0	2	0
2. Computation and adequacy of bond amounts	4	0	0
3. Verification of bond instrument validity, value and lack of restrictions	0	2	0
4. Alternative bonding system operation and solvency	N/A	N/A	N/A
5. Bond adjustments and replacements	0	2	0
6. Processing of bond release applications			
a. Public notice, notification of interested parties and consideration of comments	0	0	2
b. Evaluation of adequacy of proposed remaining bond (partial releases only)	0	0	2
c. Documentation that bond release standards have been met	0	0	2
7. Bond forfeiture			
a. Procedures	2	0	0
b. Collection and litigation efforts	2	0	0
c. Reclamation of forfeiture sites	2	0	0
<div style="display: flex; justify-content: space-between;"> <div> <p>0 - No evaluation planned</p> <p>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</p> <p>2 - Routine cyclical in-depth review</p> </div> <div> <p>3 - Selective-focus evaluation resulting from:</p> <p>(a) Inspection findings</p> <p>(b) Analysis of State data and documents routinely supplied to the Field Office</p> <p>(c) Public concern</p> </div> <div> <p>(d) Action plan item or other previously identified unresolved problem</p> <p>(e) Action plan follow-up (verification of tentative resolutions)</p> <p>4 - National priority review</p> </div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
C. Inspections			
1. Inspection frequency and procedures	2	1	1
2. Inspection reports			
a. Accuracy and completeness	2	0	0
b. Documentation of violations, site conditions and mine activity status	2	0	0
3. Maintenance of inspectable units list and inspection database	2	0	0
4. Handling of citizen complaints and requests for inspections	3(e)	0	0
D. Enforcement			
1. Identification and citation of violations	3(d)	3(d)	1
2. Notices of violations and cessation orders			
a. Timeliness of issuance and termination	0	0	2
b. Appropriateness of remedial measures and abatement periods	0	0	2
c. Documentation of reasons for modifications, terminations and vacations	0	0	2
3. Pattern of violations reviews, show cause orders and hearings	2	0	0
4. Timeliness and effectiveness of alternative enforcement actions	2	0	0
5. Responses to ten-day notices	2	1	1
E. Civil Penalties			
1. Penalty assessment procedures	3(d)	2	0
2. Documentation of rationale for penalty assessment amounts, waivers and adjustments	0	2	0
3. Maintenance of enforcement value			
a. Blocking of new permits if penalties unpaid	0	2	0
b. Collection efforts	0	2	0
<div style="display: flex; justify-content: space-between; font-size: small;"> <div> <p>0 - No evaluation planned</p> <p>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</p> <p>2 - Routine cyclical in-depth review</p> </div> <div> <p>3 - Selective-focus evaluation resulting from:</p> <p>(a) Inspection findings</p> <p>(b) Analysis of State data and documents routinely supplied to the Field Office</p> <p>(c) Public concern</p> </div> <div> <p>(d) Action plan item or other previously identified unresolved problem</p> <p>(e) Action plan follow-up (verification of tentative resolutions)</p> <p>4 - National priority review</p> </div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
F. Administrative and Judicial Review			
1. Review procedures			
a. Notification of rights	3(d)	2	0
b. Escrowing of penalties	3(d)	2	0
c. Timeliness of hearings and decisions	3(d)	2	0
d. Documentation of decision rationale	3(d)	2	0
2. Appeal or remediation of adverse decisions	0	2	0
3. Cost recovery procedures and decisions	0	2	0
G. Designation of Lands Unsuitable for Mining			
1. Processing of petitions	2	0	0
2. Maintenance of database and inventory system	2	0	0
H. Blaster Certification			
1. Training	0	2	0
2. Certification	0	2	0
3. Suspension and revocation	0	2	0
I. Small Operator Assistance			
1. Application review and verification of eligibility	0	0	2
2. Contract monitoring	0	0	2
3. Reimbursement monitoring and procedures	0	0	2
4. Laboratory certification	0	0	2
J. Maintenance of Approved Program			
1. Notification to OSM of program changes and significant conditions and events affecting implementation	2	1	1
2. Responses to Part 732 notifications and codified conditions and amendment requirements	2	1	1
3. Promulgation and implementation of approved program amendments	2	1	1
<div style="display: flex; justify-content: space-between; font-size: small;"> <div> 0 - No evaluation planned 1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office) 2 - Routine cyclical in-depth review </div> <div> 3 - Selective-focus evaluation resulting from: (a) Inspection findings (b) Analysis of State data and documents routinely supplied to the Field Office (c) Public concern </div> <div> (d) Action plan item or other previously identified unresolved problem (e) Action plan follow-up (verification of tentative resolutions) 4 - National priority review </div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
K. Program administration			
1. Grants management			
a. Drawdowns and disbursements	2	2	0
b. Accounting procedures	2	2	0
c. Timeliness of applications and reports	2	0	0
d. Maintenance of internal controls	2	0	2
e. Audits and implementation of audit recommendations	2	2	0
f. Procurement and management of property and services	2	0	0
2. Data management	2	0	0
3. Coordination with other agencies	0	2	0
4. Identification and resolution of conflicts of interest	0	0	2
L. Technical Subject Evaluation			
1.Processing of hydrologic Information	3(b)	0	0
2.Subsidence control	0	3(b)	0
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

CYCLICAL REVIEW SCHEDULE

ABANDONED MINE LAND RECLAMATION PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
A. Project Planning			
1. Inventory maintenance	2	0	0
2. Project selection	2	0	0
3. Interagency coordination	0	2	0
4. Project design	0	2	0
5. Rights of entry	2	0	0
6. Lien eligibility determinations	2	0	0
B. Project Construction			
1. Adequacy of contract terms and specifications	0	2	0
2. Construction management	2	0	2
3. Post-construction monitoring and evaluation	2	0	2
4. Project maintenance	2	0	0
5. Lien recording and maintenance	2	0	0
6. Emergency investigations and abatement efforts	N/A	*	*
C. Program Administration			
1. Grants management			
a. Drawdowns and disbursements	0	2	0
b. Accounting procedures	0	2	0
c. Timeliness of applications and reports	2	0	0
d. Maintenance of internal controls	0	0	2
e. Audits and implementation of audit recommendations	0	2	0
f. Procurement and management of property and services	0	0	2
2. Data management	0	2	0
3. Coordination with other agencies	0	0	0
4. Management and disposal of abandoned mine lands	0	2	0
5. Subsidence insurance program management	N/A	N/A	N/A
<div style="display: flex; justify-content: space-between;"> <div> 0 - No evaluation planned 1 - Standard continuous oversight (routine site visits and/or review of State or Tribal data and documents routinely supplied to the Field Office) 2 - Routine cyclical in-depth review </div> <div> 3 - Selective-focus evaluation resulting from: (a) Site visit findings (b) Analysis of State or Tribal data and documents routinely supplied to the Field Office (c) Public concern </div> <div> (d) Action plan item or other previously identified unresolved problem (e) Action plan follow-up (verification of tentative resolutions) 4 - National priority review </div> </div>			

CYCLICAL REVIEW SCHEDULE

ABANDONED MINE LAND RECLAMATION PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
D. Maintenance of Approved Reclamation Plan			
1. Notification to OSM of significant conditions and events affecting plan implementation	0	2	2
2. Responses to OSM notifications that plan amendments are needed	0	2	2
3. Promulgation and implementation of approved plan amendments	0	2	2
<p>*Evaluation of the Emergency Investigations and Abatement Efforts Sub-element will depend on Utah's assumption of an emergency abatement program.</p>			
<div> <div> 0 - No evaluation planned 1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office) 2 - Routine cyclical in-depth review </div> <div> 3 - Selective-focus evaluation resulting from: (a) Inspection findings (b) Analysis of State data and documents routinely supplied to the Field Office (c) Public concern </div> <div> (d) Action plan item or other previously identified unresolved problem (e) Action plan follow-up (verification of tentative resolutions) 4 - National priority review </div> </div>			

APPENDIX C

State Comments on Report



Norman H. Bangerter

Governor

Dee C. Hansen

Executive Director

Dianne R. Nielson, Ph.D.

Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

See well
11/16/92 file - 92 oversight
cc J. Helfrich

Joe: see memo on
p

November 6, 1992

Robert H. Hagen, Director
Office of Surface Mining
Reclamation and Enforcement
Albuquerque Field Office
505 Marquette NW, Suite 1200
Albuquerque, New Mexico 87102

Dear Mr. Hagen:

Re: Draft EY 92 Annual Evaluation Report, Utah

I have reviewed the above referenced oversight report transmitted to the Division on October 19, 1992, and am providing the following comments.

Page 5, Section VI (last paragraph)

"the significant issues relating to DOGM's program that continue to need improvement include: (1) approval of permit renewals; (2) highwall elimination; and (3) citation of violations..."

Comment: I do not agree that this sentence is a correct summary of Utah's program for the EY 92.

1. With respect to permit renewals, the statement contradicts the findings made in the last paragraph of page 9 of this report. Page 9 states that technically the Division is doing a good job and that OSM had overstated the potential for environmental impact resulting from untimely permit renewals and concludes that the timeliness issue is unresolved. I am not aware that an evaluation of timeliness of permit renewals was conducted in EY 92, consequently the current appraisal of timeliness does not appear to have a basis in fact.

2. In the case of highwalls, please remember that there have been multiple exchanges of correspondence oriented towards a highwall program amendment. I believe we met the established

timeframes for responses, and in one case proposed language identical to that recommended by OSM and still failed to resolve the issue. Utah has done everything possible to resolve the concerns in a timely manner.

3. Although I agree that we could debate the issue of citation of violations without resolution, the sentence quoted in the report does not do justice to the strides that have been made in this EY, as noted in the first paragraph on page 6. These gains include a considerable reduction in the number of TDN's issued in the past year, and an improvement in the number of LSCI issues (as noted later in the report). The statement, "however this 6 year old issue cannot be considered resolved" (page 6, paragraph 1) leaves the reader with an impression that there is an unresolved agenda, when in fact we really have had little discussion on the subject, either in oversight meetings or in other forums. The sentence quoted above could be rewritten to support the improved performance of Utah, and the improved working relationship between our two agencies.

Page 6, Sec. VI (paragraph 8)

The reclamation of the 1988 bond forfeiture site has been completed at this time. This paragraph could be rewritten to state that by the time this report was written, the reclamation was completed. It is also worth noting that while surface restoration was delayed, the work required to close portal and protect health and safety was accomplished immediately upon bond forfeiture.

Page 9, Permitting Actions (last paragraph)

The concluding sentence "The issue of timeliness (of permit renewals) remains unresolved, but the potential of environmental significance is less than originally believed because of the actual ground situation has changed or the federal Land Management Agency has taken steps to address problems" is confusing.

Comment: This sentence appears to be a holdover from an earlier EY, and I do not see a reference to an appraisal of timeliness of permit renewals completed during the EY 92, although eight are noted in Table 13. I would appreciate deletion of this sentence, or an opportunity to review revised language before finalization of this portion of the report.

Page 3
Robert H. Hagen
November 6, 1992

Page 11, Bonding (last paragraph)

Please consider adding the same language I proposed for page 6, Sec VI, paragraph 8, to this paragraph.

Page 12, Inspections (Summary findings paragraph, 2nd sentence)

"DOGM met the frequency for all active and inactive sites except for three sites where it missed two complete inspections and two partial inspections."

Comment: Please insert into the above sentence after inactive sites as follows: "a performance of 96 percent and 100 percent respectively." (Note: these percentages are from Table 3.)

Page 13, Enforcement (Summary Findings paragraph)

1. Third sentence: "During EY 92, OSM observed 16 violations that it believed existed during the LSCI."

Comment: Please insert language to the effect that of the subject violations, OSM's appraisal suggested that 12 had a minor degree of impact, and four had a moderate degree of impact.

2. Last sentence: "The EY 92 data indicated that improvement is still needed in identifying and citing violations when unaccompanied by OSM."

Comment: This sentence is not a good representation of the Utah I&E program at large because no credit is given to violations issued by DOGM when OSM is not doing RSI's. The second paragraph on page 13, credits DOGM for citing 13/14 non-LSCI violations (the 14th having been resolved during the inspection for a 100 percent rate of concurrence on non-LSCI issues between the two agencies while conducting joint inspections). Furthermore, based on table five, DOGM issued a total of 85 violations in 71 enforcement actions. Presumably, 72 of these violations were issued on non-joint inspections, and the remaining violations are the 13 referenced in the preceding sentence. I do not see the basis for stating that Utah has a problem with identifying and citing violations when 72/85 (85 percent) of Utah NOV's are issued on state inspections. I believe language describing the 100 percent concurrence rate on non LSCI issues for joint inspections and the 85 percent non-joint inspection violation issuance must to be added to the EY 92 report.

Page 13, Enforcement (last paragraph, last two sentences)

"OSM found that DOGM continued to terminate some enforcement actions based on either: (1) plan submittal or (2) based on plan approval but not on plan implementation to correct on the ground conditions. OSM found six cases of this occurrence out of 60 enforcement actions that it reviewed..."

Comment: This part of the report needs to be rewritten to reflect that in 90 percent of the cases DOGM did terminate in the manner OSM feels is appropriate. Secondly, there may be instances in the six cases with which OSM took exception to where plan approval is an acceptable termination means. I agree that termination upon submission of plans with out approval is not an appropriate action, but based on your statistics, Utah's actions in this respect are appropriate at least 90 percent of the time, and of the ten percent that we may disagree on some consideration should be given to whether termination on plan approval is an acceptable mechanism. While not wanting to dictate what OSM does in EY 93 oversight, a greater than 90 percent success rate is hardly an issue worth describing for future action.

Page 14, alternative enforcement (paragraph 3)

"OSM also conducted an in-depth review of the sub-element "Timeliness and effectiveness of Alternative Enforcement Actions". The approved State program requires DOGM pursue alternative enforcement action within 30 days through one of four alternatives when a Cessation Order (CO) issued for failure to abate a violation remains unabated after 30 days. Since the last review of this sub-element, there have been two instances requiring alternative enforcement, both relating to the same permit. In both, DOGM did not initiate alternative enforcement within the 30 days required, nor had DOGM initiated such action at the end of EY 1992- 11 months after such action should have been initiated"

Comment: Since the sub-element referenced above deals with timeliness and effectiveness of the alternative enforcement action, and since OSM's conclusions only deal with timeliness I suggest the portion of the report quoted above fails to evaluate the sub-element as required. A more acceptable description of Utah's performance for this sub-element (from my perspective) would read as follows:

OSM discussed the applicability of the alternative enforcement action elements of DOGM's program to a specific permittee with DOGM. DOGM's position was that prior to initiation of such action

Page 5
Robert H. Hagen
November 6, 1992

a Board briefing might be required. At the conclusion of EY 92 DOGM indicated that such action was being initiated. Accordingly, OSM will defer comment on this sub-element until a full appraisal (both the timeliness and effectiveness) of the action can be made.

Page 15, Civil Penalties, Discussion of Timeliness of Assessment

OSM correctly identified a discrepancy in DOGM's program in the EY 90 with respect to timeliness of assessment. The EY 92 issue appears to be more directed to whose records are correct with respect to the 30 day timeframe within which the assessment must be performed. Utah feels the magnitude of the problem is considerably less than explained. Prior to finalization of this report, I would recommend a review of DOGM's raw data with the intent of agreeing on the correct timeframe.

Page 15, Administrative and Judicial Review (paragraph 2)

"DOGM has not followed through with the statutory and program changes that it previously proposed making."

Comment: This sentence fails to acknowledge the action DOGM has taken on these issues. This sentence should be rewritten to state that DOGM is following the approved Utah Administrative Procedures in making the required statutory and regulatory changes.

Page 20 Maintenance of Approved Program (paragraph 3)

"DOGM occasionally published and distributed copies of revised versions of its rules merging approved amendments into the existing rules."

Comment: This sentence leaves the reader with the impression that DOGM's rule changes were not properly noticed and that the public is hindered from acquisition of changes to the Utah Coal Regulatory Program. I would prefer language as follows: Revised final versions of Utah rules are published in accordance with established Utah administrative procedures. When major rule changes are approved, DOGM publishes updated versions of its rules.

Page 23 AMLR, Program Project Planning

In the Utah AMR lien rules, all references but one place the authority for lien decisions with the Division, with one reference to the Board having some function. This one reference to the Board is clearly out of place and not in keeping with Board functions. A similar anomaly exists in the Utah Code.

The Division is currently working on updating the Utah Code to change the references from the Board having authority in the placement of liens to the Division. These changes will convert all references for authority in regards to lien decisions from "Board" to "Division." The rule cannot be revised until the statute is revised. This will be before the Legislature in 1993.

The Division has assumed the responsibility for lien administration on its AML projects since 1983. The Board is neither equipped nor inclined to assume such an administrative duty. Thus, the Division will continue to function in this manner, while rule and law changes are being made, with both the Board's knowledge and its understanding of this discrepancy in the rules.

Page A-4, State Inspection Activity (Table 3)

"*Information not available from the state"

Comment: If needed, we can provide a date for exploration inspections. Please contact Joe Helfrich before finalization of this portion of the report.

Page A-9, OSM Random Sample Inspection Compliance Finding (Table 8)

Comment: Given the lengthy "disclaimer" statement contained under the note, I question the value of putting this information in a evaluation report on the Utah program that will be given national press.

Page A-14, State Permitting Actions (Table 13)

Comment: Add EY 92 to title.


Comment: Prior to finalization of this table, I would appreciate an opportunity for Joe Helfrich to review and discuss the numbers of permitting actions and the acreage associated.

Page 7
Robert H. Hagen
November 6, 1992

Page A-15, Bonds released by State (Table 14)

Comment: Add EY 92 to title.

Best regards,

A handwritten signature in cursive script, appearing to read "Dianne".

Dianne R. Nielson
Director

kak
cc: L. Braxton
ovst92dr